Public Utilities

FORTNIGHTLY

BUSINESS ADMINISTRATION LIBRARY
BOSTON UNIVERSITY

October 9, 1941

105

PUBLIC UTILITIES REPORTS, INC.
PUBLISHERS

"ONE LUMP" "EXTRA CREAM"

"WEAK"

"NO CREAM"

"STRONG"

97% of American families DRINK COFFEE

"TWO LUMPS"

"LIGHT"

"NO SUGAR"

You'll profit by featuring Genuine SILEX

The Fastest-Selling Glass Coffee Maker Today

Americans love their coffee . . . 97% of all families drink it every day! Here's a tremendous market . . . and it's swinging to Silex more today than ever before!

Now's the time to profit with Silex! As defense needs cut off metal coffeemakers, more people than ever are learning that Silex-brewed coffee is better, sparklingly clear, delicious!

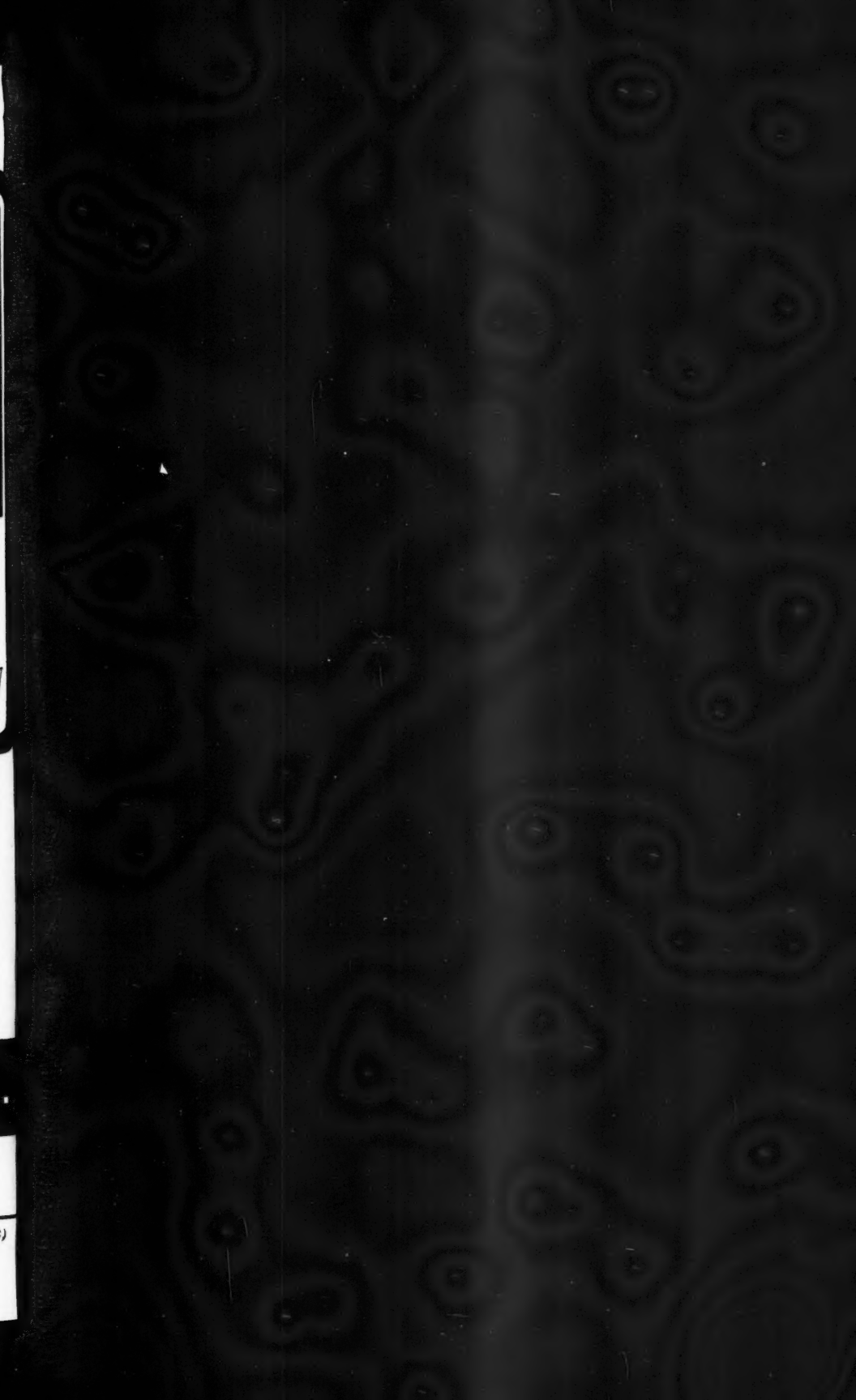
Get your share of this market, and the rich profits! Feature Silex on your counters, in promotions, in advertising!

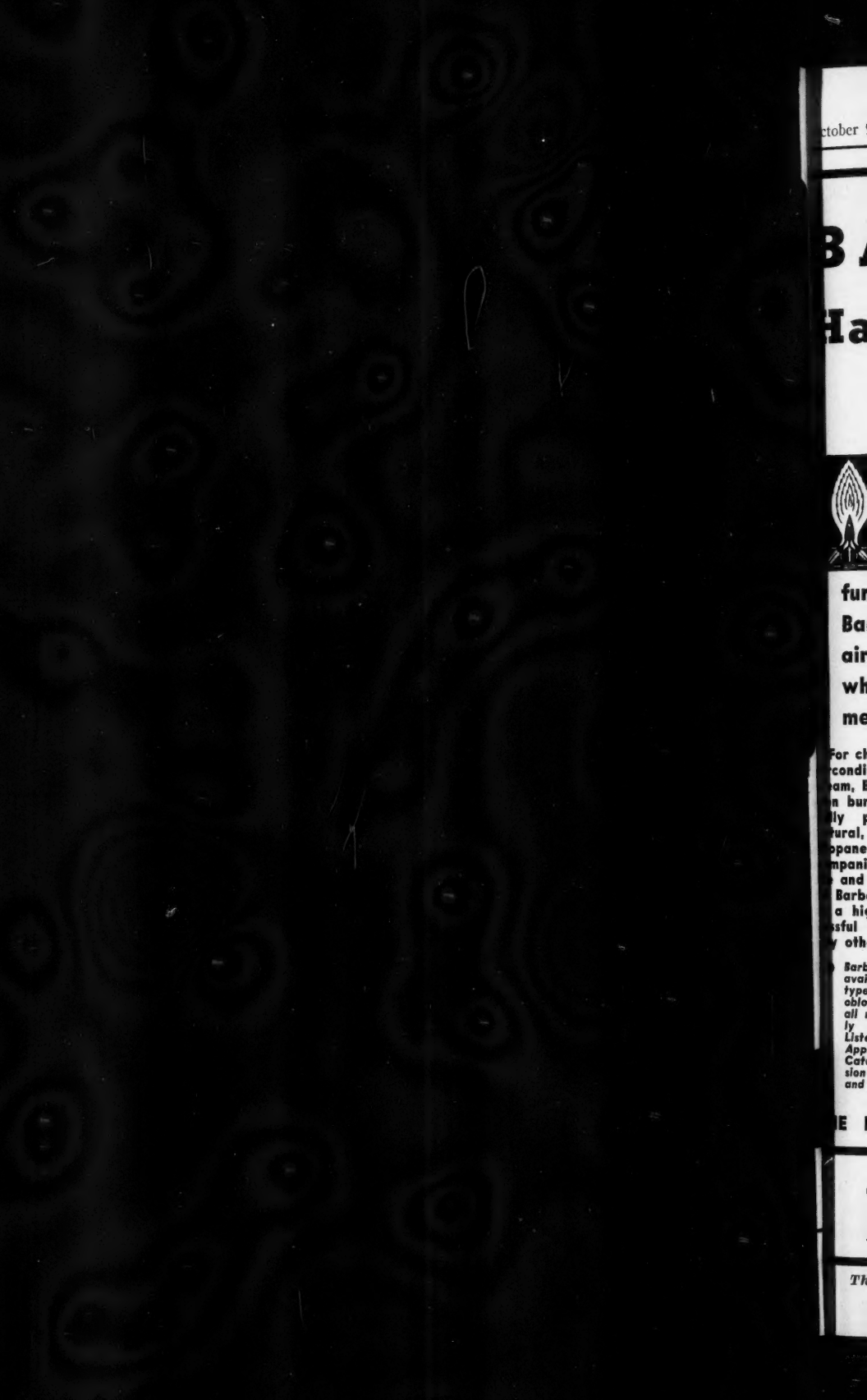
The Silex Company, Dept. PF-109, Hartford, Conn.

Creators of the Glass Coffee Maker Industry

Push Genuine SILEX - Save metal for defense . .

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*





BARBER BURNERS

Have A Unique Combustion Principle

Adding to the size and appearance of any conversion burner, with elaborate refractory elements for retaining or "radiating" heat, is not necessarily a sign of high efficiency. The combustion principle itself remains the fundamental answer to that question. The famous patented Barber Jets, available in no other burner, with their auxiliary air feed, produce a 1900° temperature *air-activated* flame which is applied directly to firebox walls, without loss on intermediate elements.

For change-over to gas fuel on conditioning, warm air, or am, Barber is the one conver- n burner that assures practi- ly perfect combustion on tural, manufactured, Butane- ppane, or bottled gas. Gas mpanies have found that relia- and economical performance Barber Burners have resulted a higher percentage of suc- ssful installations than with other burner.

Barber Conversion Burners are available in a complete range of types and sizes for all round or oblong furnaces and boilers, and all models are easily and properly adjustable to grate sizes. Listed in A. G. A. Directory of Approved Appliances. Write for Catalog and Prices on Conversion Burners, Appliance Burners and Regulators.

No. 324-B Barber Burner

No. 104-B Barber Burner

E BARBER GAS BURNER CO., 3704 Superior Avenue, Cleveland, Ohio

● **BARBER *Automatic* JET GAS BURNERS** ●

For Warm Air Furnaces, Steam and Hot Water Boilers and Other Appliances

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Editor—HENRY C. SPURR
Associate Editors—ELLSWORTH NICHOLS, FRANCIS X. WELCH, NEIL H. DUFFY
Financial Editor—OWEN ELY

Public Utilities Fortnightly

VOLUME XXVIII *October 9, 1941* NUMBER 8

Contents of previous issues of PUBLIC UTILITIES FORTNIGHTLY *can be found by consulting the "Industrial Arts Index" in your library.*

Advertising Section

¶ *This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.*

PUBLIC UTILITIES REPORTS, INC., PUBLISHERS

Publication Office .....CANDLER BUILDING, BALTIMORE, MD.
Executive, Editorial, and Advertising Offices .....MUNSEY BUILDING, WASHINGTON, D. C.

PUBLIC UTILITIES FORTNIGHTLY, a magazine dealing with the problems of utility regulation and allied topics, including also decisions of the regulatory commissions and courts, preprinted from *Public Utilities Reports, New Series*, such Reports being supported in part by those conducting public utility service, manufacturers, bankers, accountants, and other users. Entered as second-class matter April 29, 1915, under the Act of March 3, 1879. Entered at the Post Office at Baltimore, Md., Dec. 31, 1936; copyrighted, 1941, by Public Utilities Reports, Inc. Printed in U. S. A.

PRICE, 75 CENTS A COPY ANNUAL SUBSCRIPTION, $15.00

Dependable Working Tools are Vital Weapons

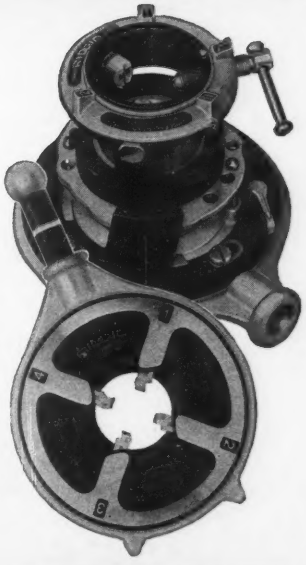
★

Speed Your Part of the Defense Job with these Work-Saver

RIDGID

No. 65R Pipe Threaders

Set to thread 1″ to 2″ pipe by an easy 10-second adjustment



Beating schedules comes natural to the miracle of voluntary American skill. . . . These self-contained No. 65R RIDGIDs help you do *your* part. They set to thread 1″, 1¼″, 1½″ or 2″ pipe of any kind in one quick adjustment—no extra dies to carry around, lose or cause delay. Instant setting work-holders, practically automatic—no bushings. Clean perfect threads from hi-speed steel chaser dies. Rugged all-steel and malleable-alloy construction. . . . Save vital time and work—ask your Supply House for these RIDGID 65Rs.

THE RIDGE TOOL COMPANY ELYRIA, OHIO

★ RIDGID ★

WORK-SAVING PIPE TOOLS

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Pages with the Editors

WASHINGTON commentators are still trying to decipher the true significance of the newly organized SPAB and the recent shake-up in OPM. Does it mean that Donald Nelson is the most important man in the United States today after President Roosevelt? Does it mean that Leon Henderson has been cut in two pieces and divided equally between OPM and OPA? Does it mean that nondefense industries will have to walk the plank in the interest of the common good?

AMONG other questions, there was considerable speculation over where the new set-up left utility industries, which have been having increasingly difficult priority and supply problems. Is Secretary of the Interior Ickes nearer or further away from his ambition to be a power czar? What are the chances of REA doing business at the same old stand a year hence?

WHILE we were wondering about these things, the smoke and dust of the reorganization shake-up cleared away and we beheld, sitting right up in the driver's seat, one Julius A. Krug, a personable and well set-up young man whom we recalled as the former power engineer for the TVA. Mr. Krug now seems to be the one who has the first and last say about electric power and gas matters at OPM. So we commissioned HERBERT COREY, our Washington interview man, to check up on the man Krug. The result is the opening article in this issue.

LESTER V. PLUM

Is there any future for centralized management in the utility business?

(SEE PAGE 468)

FERGUS J. MCDIARMID

Institutional investors in utility securities have taken kindly to the competitive bidding idea.

(SEE PAGE 460)

THE article on the future of centralized utility management, which appears on page 468, is the joint product of LESTER V. PLUM and I. M. J. KAPLAN. MR. PLUM, a native of the state of Washington, is now assistant professor in the department of economics at Princeton University, where he obtained his Ph.D. degree in 1936. MR. KAPLAN assisted MR. PLUM in assembling the industry's opinion by means of questionnaire and interview. He also is a graduate of Princeton (A.B., '41, *cum laude*).

FERGUS J. MCDIARMID, whose analysis of the relationship between competitive bidding and large-scale investment in securities appears on page 460, is an investment analyst for the Lincoln National Life Insurance Company of

ELECTRIC HEAT proves righ
nswer to embossing problem
Proper Temperature for Solu
aintained by ELECTRIC HE

Mr. Utility Executive:

YOU can help cut delays in defense production!

RIGHT NOW, most of your industrial customers are staggering under top-heavy production schedules. In many cases these schedules are slowed up by difficulties in installing and providing heat for industrial processes. **THERE'S WHERE YOU CAN HELP,** Mr. Utility Executive. Tell these hard-battling manufacturers about ELECTRIC HEAT, needing no steam, no piping, valves, traps or other gadgets, making installation a matter almost of minutes instead of days. Tell them how easy it is to apply wired heat with Chromalox units, to heat platens, molds, ovens, cleaning and pickling tanks, electroplating solutions, paint or varnish kettles, oil preheaters—a host of heating applications in which the easy installation, uniform temperatures, and carefree automatic control of Chromalox electric heating units are exactly the qualities needed to take the uncertainties out of production.

ENGINEERING COOPERATION is at the other end of your telephone wire. Call in the Chromalox electric heating experts to work with you and your customer on any specific problem.

EDWIN L. WIEGAND COMPANY
7500 THOMAS BLVD. PITTSBURGH, PA.

CHROMALOX

the production booster

Fort Wayne, Indiana. His contributions have frequently appeared in this publication.

TALK about coincidence. We showed a proof of the J. A. Patterson cartoon which appears on page 495 of this issue to a friend of ours who is now a member of Uncle Sam's armed forces, but who used to be a part of utility management. (A "reformed utility man," he calls himself.) He told us that, notwithstanding the comic vaudeville character of the situation, he is now taking orders from a captain who used to be one of the accounting clerks in his own department. However, they used to be pretty friendly in the old days, which helps their present relationship somewhat.

INDEED, the Emergency has changed so many things and created so many new problems that we cannot call similar instances of utility men's experience in the Army especially important or significant. But here are three more items for what they are worth:

A COUPLE of ex-operating telephone company men, now serving as Signal Corps officers, found themselves in the grill room of a Washington hotel the other day with nothing more important to do, at the moment, than to surround and totally annihilate some Vat 69. Suddenly the door opened and a dapper little baldheaded man with large eyes and sniffling nose walked into the place.

"THERE'S a familiar face, such as it is," said Captain X. "I've seen that guy around Ohio plenty of times."

"SURE you have," replied Lieutenant Z. "Name's Bunyon. Works for the so-and-so battery company. Daffy as a June bug. Telephone men out my way used to call him 'Bunny Nose Bunyon' until recently, when they ran into a shortage. Now he is handling the rationing; and they call him 'Mister Bunyon.'"

AN electric company division superintendent told us about a certain lineman who was recently inducted into the Army. As a lineman he was only so-so and his employment record was only so-so. When the call to arms came, the division superintendent felt that he could bear up under the loss of the young man's services with considerable fortitude. But the young man felt otherwise. Didn't like Army life at all. He kept badgering his old boss to use his influence to get him out of the service as "an employee essential to national defense."

To make a long story short, the ex-boss did not feel he could conscientiously make such a request and the ex-lineman is still sore about it. From somewhere in Louisiana, where the Army maneuvers and sand chiggers are quite active, the ex-boss gets a regular weekly postal card with uncomplimentary salutations, such as

HERBERT COREY

At OPM they say "Krug" for "Power."

(SEE PAGE 451)

"Having one h— of a time. Wish you were here."

THEN there is the one about the Infantry sergeant who was bravely defending the nation's capital in the recent war games somewhere in southern Maryland. Since the higher officers did not have enough ordnance maps for distribution to noncommissioned officers, the latter were told that, when leading patrol or reconnaissance squadrons, they might provide themselves with road maps from gasoline stations. This particular sergeant got in quite a mess trying to cross the Patuxent river where there was no bridge for many miles. It turned out that he had gotten hold of a telephone toll line map. And nobody in his squad was a wire walker.

AMONG the important decisions preprinted from *Public Utilities Reports* in the back of this number, may be found the following:

THE Securities and Exchange Commission entertained an application for a declaration as to subsidiary status under § 2 (a) (8) of the Holding Company Act and ruled that the fact that an affiliated company may at times differ with other affiliates in matters of policy is of no moment in deciding whether there is a controlling influence under that section of the act, since the act need not be construed as meaning that those exercising controlling influence must be able to carry their point. (See page 42.)

THE next number of this magazine will be out October 23rd.

The Editors

TOP T. Q.* 54 TO 21 . . .

Remington's Model Seventeen has more operating advantages for easier typing and longer performance. When compared feature for feature with "The Other Three" combined, Model Seventeen comes out on top by 54 to 21--nearly 3 to 1 superiority!

Typists thrill to its speed and efficiency, owners stand by it for dependability. It's accessible from the typist's point-of-view as well as for cleaning and servicing - trouble free all the way, this Top T.Q.* machine! Typewriter Division, Remington Rand Inc., Buffalo, N. Y.

Branches, Sales and Service Offices in 517 cities.

REMINGTON MODEL SEVENTEEN

*Typewriter Quotient

MORE EXCLUSIVE FEATURES THAN ON ALL OTHER TYPEWRITERS COMBINED !

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

In This Issue

In Feature Articles

In Financial News

In What Others Think

In The March of Events

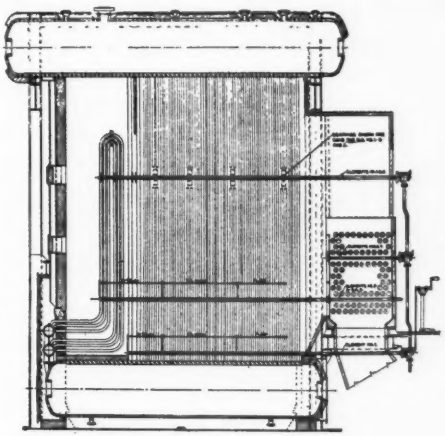
In The Latest Utility Rulings

PREPRINTS FROM PUBLIC UTILITIES REPORTS

Various regulatory rulings by courts and commissions reported in full text, pages 1–64, from 40 PUR(NS)

Another Example of VULCAN VERSATILITY *in Soot Blower Design*

Vulcan unit makes notable 4 year record in latest design, twin furnace Foster Wheeler steam generator installation at Oil City, Pa., station of the Keystone Public Service Company, operating on fuel relatively high in ash having a low fusion point.



lcan unit in twin-furnace Foster Wheeler steam erator completes 4 years' service with NO TROUBLE D NO MAINTENANCE.

...This despite unusual problems presented by el boiler and furnace design.

...As the drawing shows it was impracticable to all soot blowers from the front of the boiler as the nace construction precluded installation of con- tional type of elements and bearings to provide essary protection and support.

...Hence, entry was made at the back necessitating ying the elements a distance of about 26 ft., through economizer and boiler tube banks to the super- ter.

...Passage through high temperature, intermediate perature and relatively low temperature zones, s the factor of exceptional length, greatly compli- ed the problems of securing adequate thermal pro- tion, dependable support, and at the same time vide for expansion and contraction without danger cutting tubes.

olution was found by using HyVULoy element section for the high temperature area, VULcrom element for the intermediate, with the balance steel; and providing specially designed bearings to hold the members in such a way as to eliminate hazard of tube-cutting and directed expansion toward the back of the boiler, where it could be taken up by a suitable expansion joint.

...Because of the advanced design of this boiler involving new features in soot-blower design and construction, Vulcan engineers inspected the installation monthly for many months, but the engineering was so sound that no trouble of any kind developed—Results—Perfect Operation—Perfect Cleaning—Reasonable Cost —And—VULCAN SOOT BLOWERS WERE SPECIFIED when a duplicate Foster Wheeler twin furnace steam generator was recently ordered by Keystone Public Service Company.

...Whatever the characteristics of your boiler and setting, fuel, or load, Vulcan engineers can successfully solve any soot blower installation and operating problem involved. We invite your consideration of Vulcan service with respect to any soot blower need.

VULCAN SOOT BLOWER CORPORATION

DU BOIS, PENNSYLVANIA

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

EDITORIAL STATEMENT
Electric Light and Power.

"Public acceptance of electrical living never has been higher."

FREDA KIRCHWEY
Editor and publisher, The Nation.

"We weep over China; but we will fight for tin and rubber and oil."

DAVID LAWRENCE
Editor, The United States News.

"The right to strike is not more sacred than the right of the American workingman to work."

M. B. HOLIFIELD
Assistant Attorney General of Kentucky.

"The homes of our nation bring in no income and certainly serve an even greater public service [than rural electrification], but the Constitution does not exempt them from taxation."

FRANKLIN DELANO ROOSEVELT

"Nothing will sap the morale of this nation more quickly or ruinously than penalizing its sweat and skill and thrift by the individually undeserved and uncontrollable poverty of inflation."

EDITORIAL STATEMENT
Industrial News Review.

"Private enterprise in any field can be regulated. The abuses of private enterprise can be corrected and the abusers punished. But no one has yet found a solution to the problem of government grown too great—government abuses."

EDITORIAL STATEMENT
The Nation.

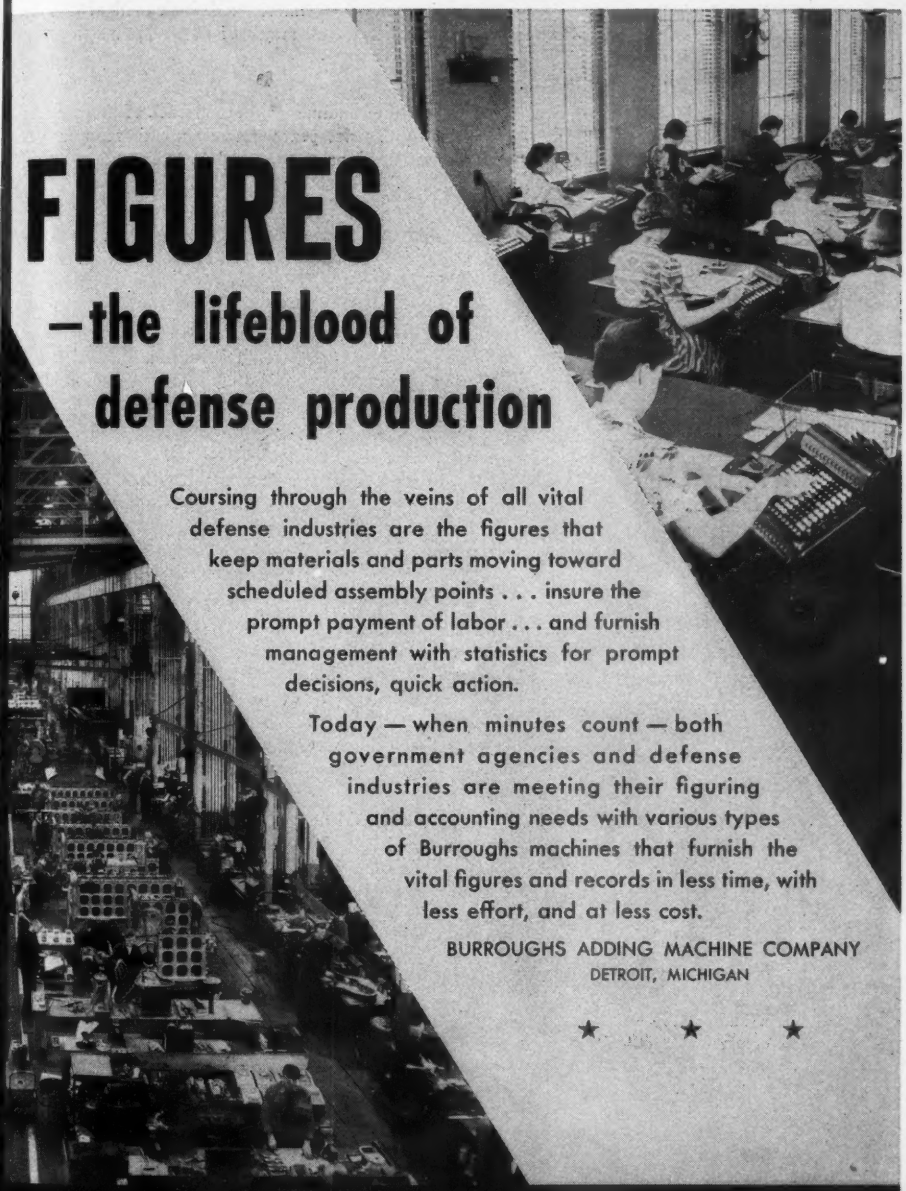
"Though the TVA should have taught the most short-sighted conservative the value of long-range planning and development of power for defense, the lesson seems to be overshadowed by real or imaginary dangers to private financial interests."

ALVA B. ADAMS
U. S. Senator from Colorado.

"We are in the habit of thinking of the banks collectively as being very rich. They do have a tremendous amount of money. . . . But we have already appropriated, or will, five times the total capital assets of all the banks in the United States."

I. F. STONE
Washington editor, The Nation.

"The history of administrative bodies set up to protect the rights of underdogs indicates that most of them sooner or later come under the control of the interests they were supposed to police. The Labor Board seems headed in the same direction."



FIGURES
—the lifeblood of defense production

Coursing through the veins of all vital defense industries are the figures that keep materials and parts moving toward scheduled assembly points . . . insure the prompt payment of labor . . . and furnish management with statistics for prompt decisions, quick action.

Today — when minutes count — both government agencies and defense industries are meeting their figuring and accounting needs with various types of Burroughs machines that furnish the vital figures and records in less time, with less effort, and at less cost.

BURROUGHS ADDING MACHINE COMPANY
DETROIT, MICHIGAN

★ ★ ★

Today's **Burroughs**

DOES THE WORK IN LESS TIME—WITH LESS EFFORT—AT LESS COST

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

ALEXANDER WILEY
U. S. Senator from Wisconsin.

"The front line of American defense will always be found in the hearts and minds of its people, particularly its young people."

ROBERT R. R. BROOKS
Special labor consultant, Office of Production Management.

"Strikes make headlines. What lies back of them rarely does. And industrial peace goes on month after month without benefit of printer's ink."

HARRY FLOOD BYRD
U. S. Senator from Virginia.

"Confusion, due to conflicting and overlapping authority, exists to such a degree at Washington as virtually to stymie the whole defense program."

RAYMOND MOLEY
Journalist.

"There are those who would breathe a sigh of relief if Congress had the power and disposition to repeal most of the works of Mr. Justice Frankfurter."

EDITORIAL COMMENT
The Wall Street Journal.

"It will be a plain fraud upon the people if they are remorselessly taxed 'for defense' and *in addition* for the maintenance of government expenditures for which no better excuse can be offered than that *some* of the folks back home have become accustomed to them."

WALTER M. PIERCE
U. S. Representative from Oregon.

". . . the spectacle of piles of aluminum pots and pans collected from the housewives of the nation is bitterly ludicrous when we think of the terrible waste of aluminum through neglect in putting plants into operation and in the construction of unnecessary power facilities."

EARL C. MICHENER
U. S. Representative from Michigan.

"Now the President has directed that this [St. Lawrence] project be tied up with the Florida ship canal, the Tombigbee river proposition, as well as many other projects throughout the United States, many of which are of most doubtful validity. We should be thankful that Passamaquoddy bay has not as yet been included."

HAROLD L. ICKES
Secretary of the Interior.

"If you check up on those who are trying to make the people believe the Federal government has been taking advantage of you by spending hundreds of millions of dollars out here [Pacific Northwest] in order to make you economically free, you will probably discover a private utility man, or a little brother of a private utility man."

RAYMOND C. WILLOUGHBY
Managing editor, Nation's Business.

"Architects of public policy are now featuring structures with price ceilings, wage floors, smaller storage for profits, larger tax receptacles, priority passageways, and built-in cabinets for rationing cards. No provision at all for 'business as usual.' Battleship gray, service khaki, and inflationary red are fashionable shades for color schemes."

Safeguard Equipment Outlay with R&IE METAL ENCLOSED BUS

R&IE bus provides individual housings for each conductor with air space between-thus preventing interphase shorts and limiting any trouble to ground faults. The air space also promotes cooling.

R&IE bus provides ample strength to resist short circuit stresses. These stresses are taken by the mounting frames in which the insulators are subjected to compression loading only.

R&IE bus covers are housings only and not strength members. These housings can be gasketed to keep out dirt and moisture.

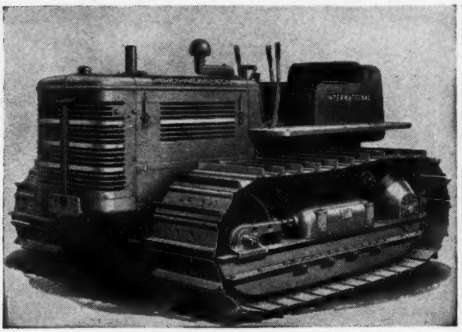
R&IE bus can be mounted on floor, wall, or ceiling and is readily fitted to a structural steel mounting.

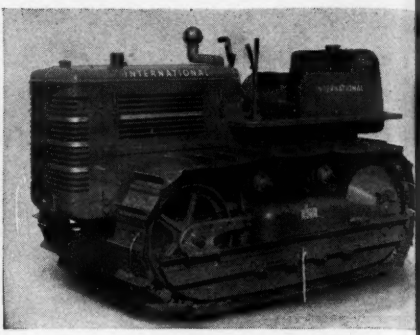
R&IE bus can be installed, aligned, adjusted and tested, and then the housings put on. Conversely the housings can be taken off for inspection by removing a minimum number of bolts.

R&IE bus can compete in price and in low cost of erection with any other type of bus structure and also give the above distinct advantages.

RAILWAY AND INDUSTRIAL ENGINEERING CO.

GREENSBURG, PA. . . In Canada, Eastern Power Devices, Ltd., Toronto





TYPICAL EQUIPMENT THE T-6 OPERATES

Bulldozers—6 to 7 ft. • Bullgraders—7½ to 8½ ft. • 2-wheel scrapers—2½ to 3½ yds. • Roll-over scrapers—½ to 1 yd. • Blade graders—7 to 8 ft. • Front-end shovel—½ yd. • Cranes—1 ton @ 8-ft. radius • Towing winches—10,000 lbs. @ 100 ft.p.m. • Oil field winches—25,000 lbs. @ 40 ft.p.m. • Snow plows—8-ft. cut • Terracers (light)—8 ft. • Small logging arches and fire-line plows.

TYPICAL EQUIPMENT THE T-9 OPERATES

Bulldozers—6½ to 8 ft. • Bullgraders—8½ to 10 ft. • 2-wheel scrapers—3 to 4 yds. • 4-wheel scrapers—4 to 5 yds. • Rollover scrapers—1 to 1¾ yds. • Blade graders—8 to 10 ft. • Front-end shovel—¾ yd. • Cranes—2 ton @ 8-ft. radius • Towing winches—12,500 lbs. @ 100 ft.p.m. • Oil field winches—35,000 lbs. @ 3 ft.p.m. • Snow plows—8 to 9-ft. cut • Terracers—8 to 10 ft.

LOTS OF PUSH AND PULL FOR THEIR SIZE

INTERNATIONAL T-6 and T-9 TracTracTors with Distillate or Gasoline Engines

GOOD THINGS come in pairs when you're in the market for medium-sized crawler tractors with gasoline engines. These International TracTracTors give you plenty of push and pull for their size. Both the T-6 and T-9 *develop more drawbar pull than any other tractors in their size and power range.*

The T-6 and T-9 have the same dimensions as the popular TD-6 and TD-9 DIESELS. Both have all the time and money-saving features of modern TracTracTor design. For example, there's Tocco-hardening—which Harvester pioneered—in crankshafts and track rollers. The specially designed combustion chamber, providing smoother operation, longer engine life, and remarkable fuel economy, another performance feature you'll appreciate.

Ask the nearest International Industrial Power dealer or Company-owned branch for full information about these two dependable tractors.

INTERNATIONAL HARVESTER COMPANY
180 North Michigan Avenue Chicago, Illi

INTERNATIONAL HARVESTER

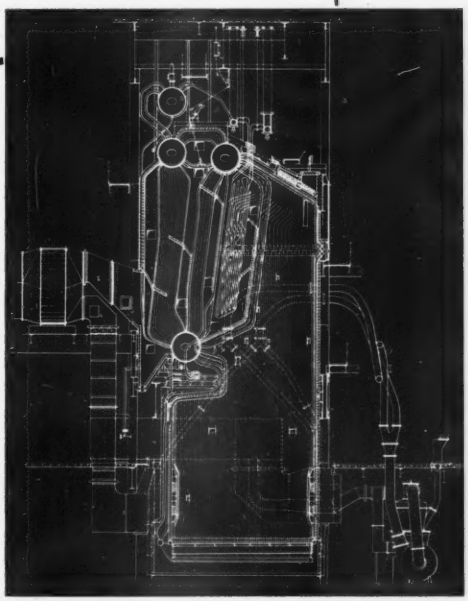
This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

MODERN STEAM GENERATING UNITS

VIRGINIA ELECTRIC & POWER COMPANY

REEVES AVENUE STATION, NORFOLK, VA.

Capacity—400,000 lb. per hr.
Design Pressure—975 lb.
Total Steam Temperature—900 F.



The sectional elevation at the right shows one of the two C-E Units now under construction for the Reeves Avenue Station of the Virginia Electric & Power Company.

C-E equipment includes Type V3 Boilers, Water-Cooled Furnaces—Cagging Type, Bowl Mills, Tangential Burners and Elesco Superheaters.

These units comprise the steam generating equipment of the 1941 Extension of the Reeves Avenue Station which is under the supervision of Stone & Webster Engineering Corporation, Consulting Engineers.

● ● ●

Many of the most notable steam generating units of the present day have been designed by Combustion Engineering. They include eight of the ten units in the world which are capable of producing 1,000,000 lb. of steam per hr.; also the boilers most recently installed in the world's largest utility, industrial and central heating plants.

C-E Products include all types of

BOILERS • FURNACES • PULVERIZED FUEL EQUIPMENT • STOKERS
SUPERHEATERS • ECONOMIZERS • AIR HEATERS

COMBUSTION ENGINEERING

200 MADISON AVENUE, NEW YORK, N. Y.

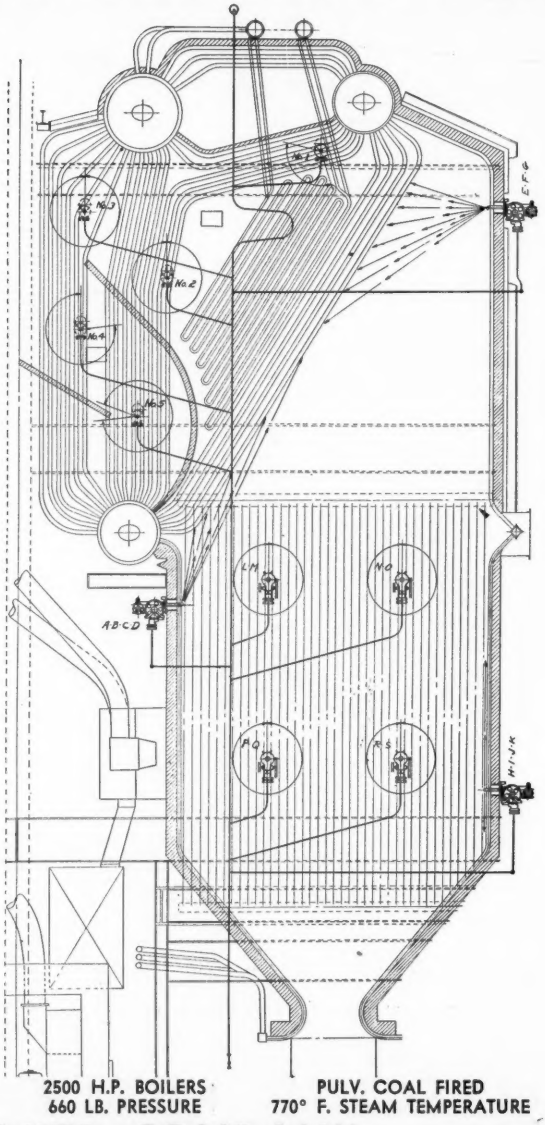
A-617

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

BAYER SOOT CLEANERS

APPLIED TO

MODERN PUBLIC UTILITY BOILERS



2500 H.P. BOILERS
660 LB. PRESSURE

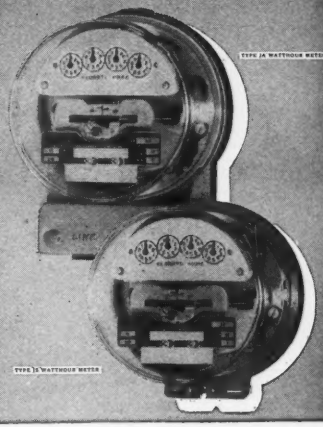
PULV. COAL FIRED
770° F. STEAM TEMPERATURE

THE BAYER COMPANY ST. LOUIS, MISSOURI

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

ONLY WATTHOURS *Metered* ADD REVENUE *Gains!*

12,000,000 meters now in service are old and uncompensated. Considerable revenue losses often result from metering modern appliance loads with these uncompensated meters. With modern Sangamo Type J Meters, however, the loads imposed by today's diversified electric appliances are metered accurately — resulting in full revenue for all load gains.



PAYLOADS when metered with *modern* meters

SANGAMO ELECTRIC COMPANY

SPRINGFIELD - ILLINOIS

STATEMENT OF OWNERSHIP

Statement of ownership, management, circulation, etc., of Public Utilities Fortnightly, published biweekly at Baltimore, Md.; required by the Acts of Congress of August 24, 1912 and March 3, 1933.

Publisher: Public Utilities Reports, Inc., Washington, D. C.

Editor: Henry C. Spurr, Washington, D. C.

Managing Editor: None.

Business Manager: A. S. Hills, Washington, D. C.

Owners: (Names and addresses of individual owners, or if a corporation, its name and addresses of stockholders owning or holding 1 per cent or more of the total amount of stock.) Public Utilities Reports, Inc., Washington, D. C.; Orlando B. Willcox, New York, N. Y.; Owen D. Young, New York, N. Y.; Philip H. Gadsden, Philadelphia, Pa.; L. R. Nash, Ridgefield, Conn.; William J. Hagenah, Chicago, Ill.

Known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are: None.

PUBLIC UTILITIES REPORTS, INC.,
A. S. Hills, Business Manager

Sworn to and subscribed before me this 22nd day of September, 1941.

Elsie P. Dameron,
Notary Public.

(My commission expires October 15, 1943.)

DAVEY TREE TRIMMING SERVICE

1846 1923

JOHN DAVEY
Founder of Tree Surgery

An Economical Service

- *Specially Trained Men*
- *Finest Working Equipment*
- *Planned Procedure*
- *Skillful Supervision*

Always use dependable Davey Service

DAVEY TREE EXPERT CO. KENT, OHIO

DAVEY TREE SERVICE

This page is reserved under the* MSA PLAN *(Manufacturers Service Agreement)

Let's be

Suggestive

YES, let's both be suggestive . . . in a nice way of course. We want to sell store fronts, and you wish to sell illumination for store exteriors. We will both get farther if we both suggest complete exterior remodeling, with exterior illumination.

It works this way. For our part, the sale of a store front usually means much greater illuminated areas—signs, vestibules, pilasters and piers—novel uses of light and glass to attract attention—for we know a well lighted front will be most effective.

On the other hand, it is to your advantage to suggest a new front, for that will give you more to work with . . . more to illuminate successfully . . . more possibility of an increased load.

It's only logical, then, for those interested in selling increased illumination to suggest a new store front, and for those interested in selling store fronts to suggest and incorporate in their recommendations a greater use of light.

When you think of store fronts, think of "Pittsburgh" Pittco Store Fronts . . . the leader in the field.

PITTCO STORE FRONTS

PITTSBURGH PLATE GLASS COMPANY

"PITTSBURGH" stands for Quality Glass and Paint

This page is reserved under the* MSA PLAN *(Manufacturers Service Agreement)

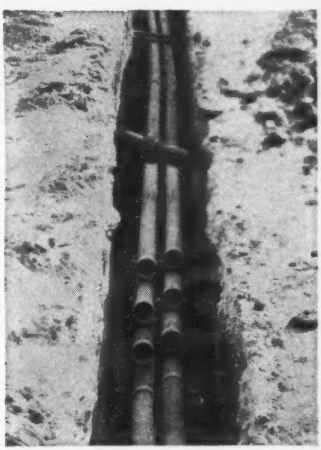
acts You Can Use to Cut Distribution Costs

RANSITE DUCTS BOOST SYSTEM CAPACITY!

High Thermal Conductivity of Johns-Manville Transite Ducts dissipates heat more quickly . . . either cuts copper losses or increases capacity.

ABLE OPERATION is improved wherever Transite Ducts are used. Made of asbestos and cement, provide a high rate of heat dissipation. This ns increased system capacity or lower cable-rating temperatures with resultant decreased in-tion and I^2R losses and longer cable life.

What's more, you spend less on upkeep, for Trans-Ducts can't rust, rot or burn. They effectively st corrosion and do not soften, swell or blister. ir smooth bore *stays* smooth . . . makes cable re-al and replacement as easy as initial installation. because Transite Ducts come in long, light ths with a complete line of fittings, jobs are fin-d quickly and economically. For details, write for hure DS-410. Johns-Manville, 22 E. 40th St., York, N. Y.



Because J-M Transite Ducts are made of asbestos and cement, less separation is required for effective heat dissipation and fire protection between cables.

FOR EFFICIENT, LOW-COST SERVICE, SPECIFY...

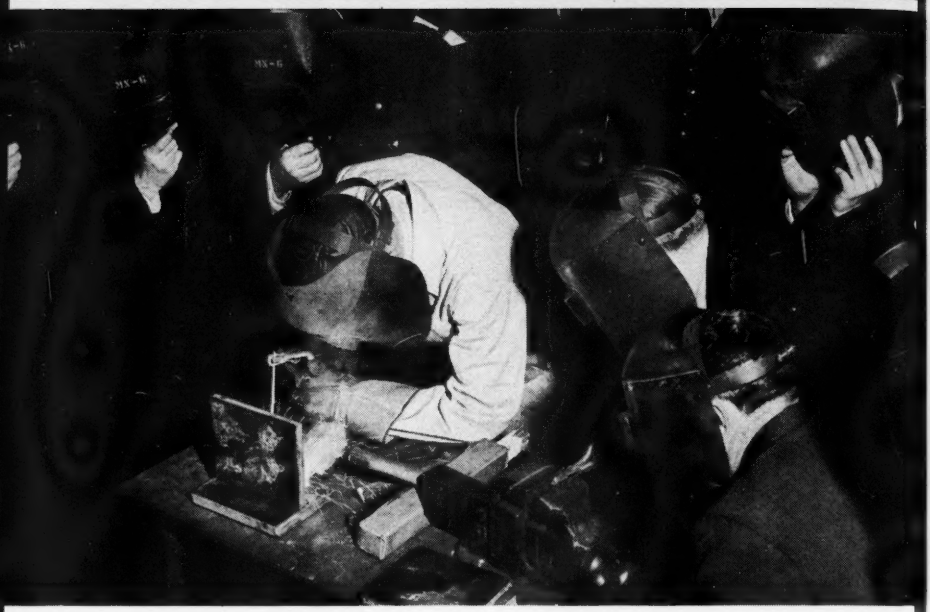
JM Johns-Manville

TRANSITE DUCTS

TRANSITE CONDUIT... For use underground without a concrete envelope and for exposed locations.

TRANSITE KORDUCT... For installation in concrete. Thinner walled, lower priced, but otherwise identical with Transite Conduit.

They're learning to weld skyscrap



MEMBERS of Pittsburgh's Building Inspection Bureau and Allegheny County's Bureau of Tests, learn about welding steel buildings at the Westinghouse School. Pioneered by Westinghouse, this new building method is bringing valuable new loads to central station lines throughout the country. Similar developments in electricity are continually being promoted by Westinghouse in the fields of lighting, power distribution, industrial motor and control application, and home appliances. And with each new or improved use of electricity you win added load and bring increased satisfaction to hundreds of customers along your lines.

Westinghouse activities in research, in the manufacture, distribution and application of apparatus, and in promoting the use of electricity, result in better service to you and a wider use of electricity by your customers. They have been made possible and are continually encouraged by your purchases of Westinghouse apparatus.

WESTINGHOUSE ELECTRIC & MANUFACTURING COMPANY, EAST PITTSBURGH, PA.

Westinghouse

ELECTRICAL PARTNER OF THE CENTRAL STATION INDUSTRY

Water Meters Keep Down Pumping Costs

METERING PROGRAM COMPLETED

What Water Meters Do

Greatly reduce water waste

•

Keep down pumping costs

•

Conserve water reserves

•

Distribute water costs fairly

•

Reduce water rates

THE SIMPLE SUSTAINED ACCURACY

OFTEN—too often—in many communities, the question of installing new pumps and larger water mains has loomed unpleasantly before a dollar-conscious Water Board. Increased water consumption made the expense seem all too inevitable . . . until water meters were put on the job to check up on water wastes . . . then pumping costs took a downward turn! The result (judging by actual experience in a number of cities) was that buying new pumps, or laying larger mains, or increasing storage capacity has often been postponed for years . . . and there have been many notable reductions in sewerage expenses too, because the less water used, the less water was passed through sewers . . . thanks to the watchfulness of water meters.

Trident Meters

KEEP DOWN METER COSTS

NEPTUNE METER COMPANY · 50 West 50th Street · NEW YORK CITY

Branch Offices in CHICAGO, SAN FRANCISCO, LOS ANGELES, PORTLAND, ORE., DENVER, DALLAS, KANSAS CITY, LOUISVILLE, ATLANTA, BOSTON.

Neptune Meters, Ltd., 345 Sorauren Avenue, Toronto, Canada.

• *One of a series of advertisements outlining the five ways in which Water Meters increase operating efficiency, reduce costs and add to the revenue of the modern Water Works.*

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Good Management

BEGINS WITH

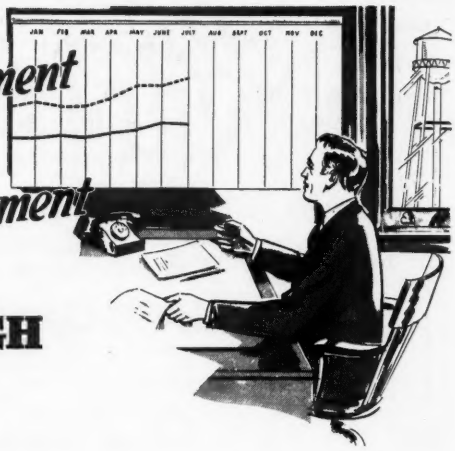
Good Measurement

INSTALL

PITTSBURGH

IMO

METERS

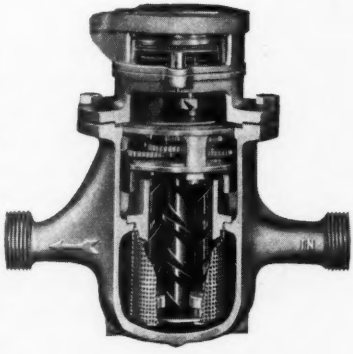


THE average water works superintendent's job is a two-fold one. His first responsibility is to his consumers—to see that they are furnished with an adequate supply of pure, healthful water. His second responsibility is to his community—to see that water is distributed and billed at the lowest possible cost commensurate with the service rendered. The superintendent must, perforce, combine the duties of producer, distributor, purchasing agent, salesman and accountant. Accomplishing these functions to everyone's satisfaction requires good management to the 'nth degree.

Confidence in his measuring equipment gives the water works superintendent an assurance of accuracy in his dealings with consumers. Even more important from the management angle is the just and equitable revenue produced by accurate metering.

Pittsburgh IMO Meters provide the ultimate in good measurement. They measure the low flow rates that conventional meters will not record. They retain their initial accuracy over a long period of time. By operating quietly, they improve public relations. They materially lower maintenance costs, thereby reducing the cost of measurement.

Good management knows the value of good measurement. The installation of Pittsburgh IMO Meters gives both consumers and communities the best in water service at the lowest possible cost.



Remember— PITTSBURGH IMO METERS WEAR IN WHERE OTHERS WEAR OUT

PITTSBURGH EQUITABLE METER COMPANY

NEW YORK BROOKLYN DES MOINES MEMPHIS DALLAS TULSA CHICAGO BOSTON

MERCO NORDSTROM VALVE COMPANY
Main Offices, Pittsburgh, Pa.
NATIONAL METER DIVISION, Brooklyn, N. Y.

KANSAS CITY PHILADELPHIA SAN FRANCISCO LOS ANGELES SEATTLE HOUSTON COLUMBIA BUFFALO

Pittsburgh-National Meters

THE MOST COMPLETE LINE OF WATER METERS IN THE WORLD

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Built to be first . . .

NEW CHEVROLET TRUCKS

that fully live up to the

OLD CHEVROLET TRADITION

of Performance, Economy and Extra-Long Life

N TIMES like these, no news is good news when it comes to truck nnouncements. And there is no news about the 1942 Chevrolet uck *engines*—they are the same powerful and durable engines as ere used in 1941—with the same time-proved cast-iron pistons Chevrolet has made 80,000,000 cast-iron pistons in 20 years). And ere's no news about the *chassis*—built up of Chevrolet's time-oved units, unchanged in frame, axle, transmission, clutch, eering, braking.

Chevrolet offers 60 models—on nine different wheelbases—a uck to suit your needs, a truck to suit the times.

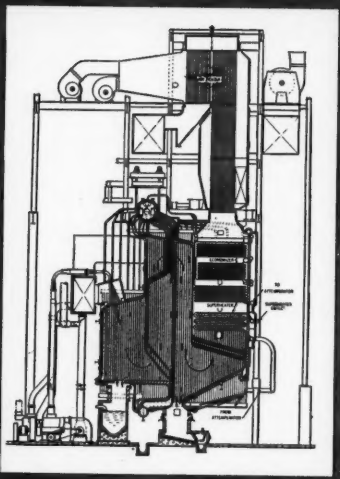
This year, go Chevrolet—and you'll be all set to go for years to me—because Chevrolet, long the leader in value and sales, is ilt to be first in performance, economy and durability.

CHEVROLET MOTOR DIVISION, *General Motors Sales Corporation*
DETROIT, MICHIGAN

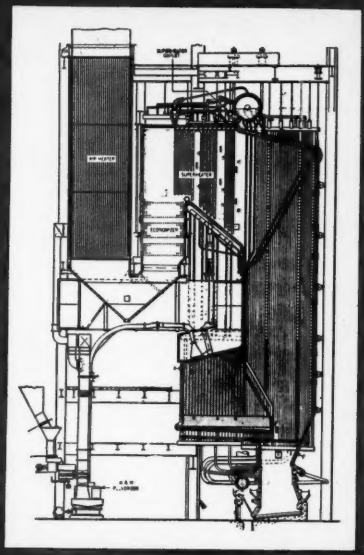
"THRIFT-CARRIERS FOR THE NATION"

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

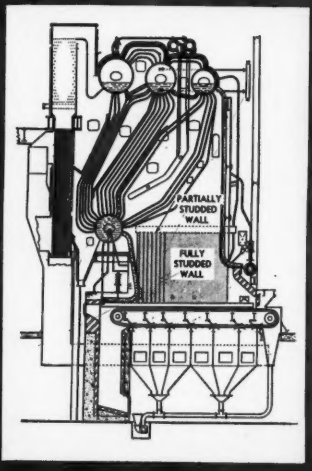
Variety in Boilers



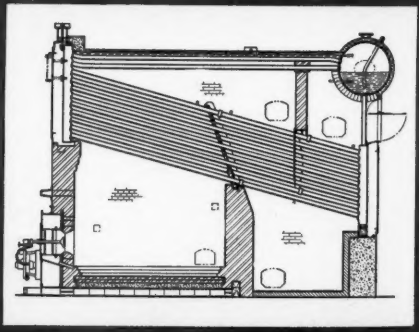
OPEN-PASS BOILER



RADIANT BOILER



STIRLING BOILER



DESIGN 32 RBW BOILER

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

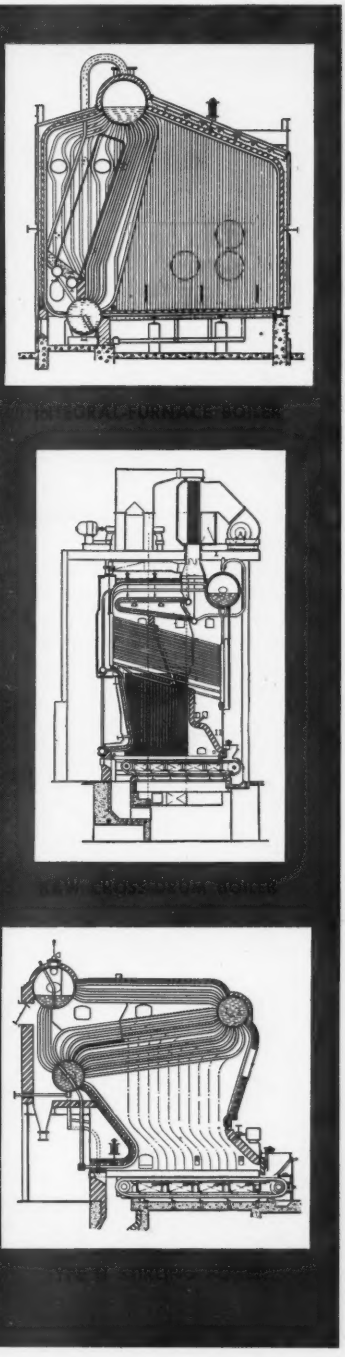
for DEFENSE

Just as different branches of the American armed forces require different types of equipment, so, too, do individual power plants require different types of steam producing equipment. And it is to Babcock & Wilcox, therefore, that logic and experience cause plant executives to turn for their boilers.

Since its incorporation in 1881—for 60 years—The Babcock & Wilcox Company has built and sold more boilers than any other manufacturer, and has led the trend in boiler design and workmanship: designing and developing the first successful water-tube boiler; pioneering in the welding of boiler drums and in x-ray inspection of welds, including the installation of the first 1,000,000-volt x-ray machine for this purpose; leading in the development of high pressure boilers; conducting research in the creep of steel; developing improvements in equipment for producing clean, dry steam; developing the integral water-cooled-furnace boiler, the Radiant, and Open-Pass boilers. The total experience gained with these developments is incorporated in every Babcock & Wilcox boiler. Thus, each boiler fits some place on the power-plant defensive front, in preparation for greater power demands, in protecting against possible costly shut-downs, and in countering rising costs by minimizing the cost of power, including maintenance.

And, when boilers are considered, it should be remembered that Babcock & Wilcox has large up-to-date plants, unsurpassed laboratory facilities, and an outstanding engineering staff; and that B&W produces all essential equipment for modern steam-generating practice, including water-cooled furnaces, pulverizers, stokers, burners for oil, gas, and pulverized fuels, superheaters, economizers, air heaters, breechings, stacks, tubes, and refractories.

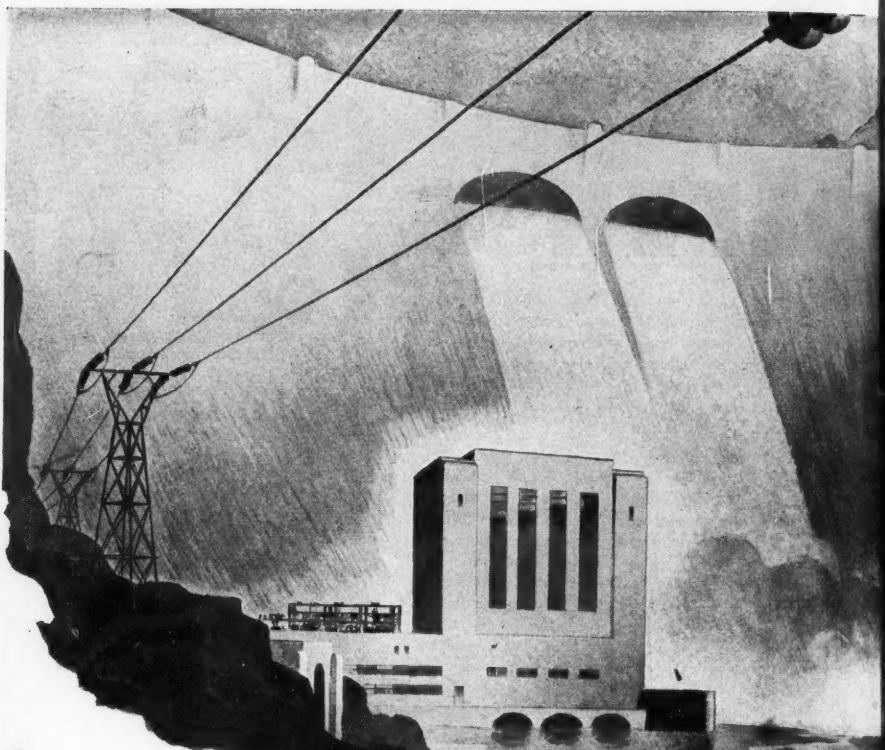
The result to the purchaser is a well integrated unit under undivided responsibility.



THE BABCOCK & WILCOX COMPANY
85 LIBERTY STREET . . . . NEW YORK, N. Y.

BABCOCK & WILCOX

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*



POWER . . .

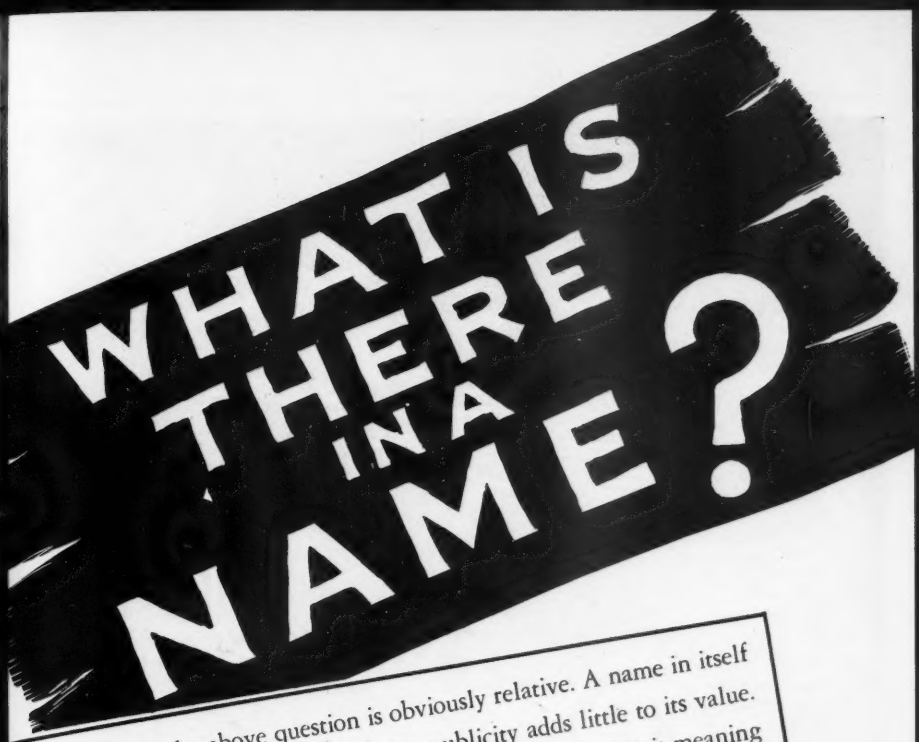
as nearly unfailing as human skill can devis

THE almost flawless dependability that characterizes the electric power and light services of the nation today is the result of years of painstaking scientific development . . . conducted alike by the utility companies and by the industries which supply them with equipment. Because of the part which Exides have played in this development — because throughout the entire history of the electric industry the quality and dependability of these batteries have never varied — Exides occupy an enviable position. This explains why, in so many of the nation's largest pow plants, Exides faithfully provide power f the operation of vital equipment, and, emergencies, furnish light for the plant itsel

THE ELECTRIC STORAGE BATTERY C
The World's Largest Manufacturers of Stora Batteries for Every Purpose
PHILADELPHIA
Exide Batteries of Canada, Limited, Toronto

Exide
BATTERIES

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*



THE ANSWER to the above question is obviously relative. A name in itself is insignificant and any amount of mere publicity adds little to its value. is the character of the man or product back of a name that gives it meaning nd establishes its worth.

Many readers of *Public Utilities Fortnightly* are familiar with the name Mercoid. To them, it is something more than simply a widely known registered trade mark. It identifies a line of Mercury Switch Equipped Controls used in tens of thousands of homes, contributing to the comfort of its occupants.

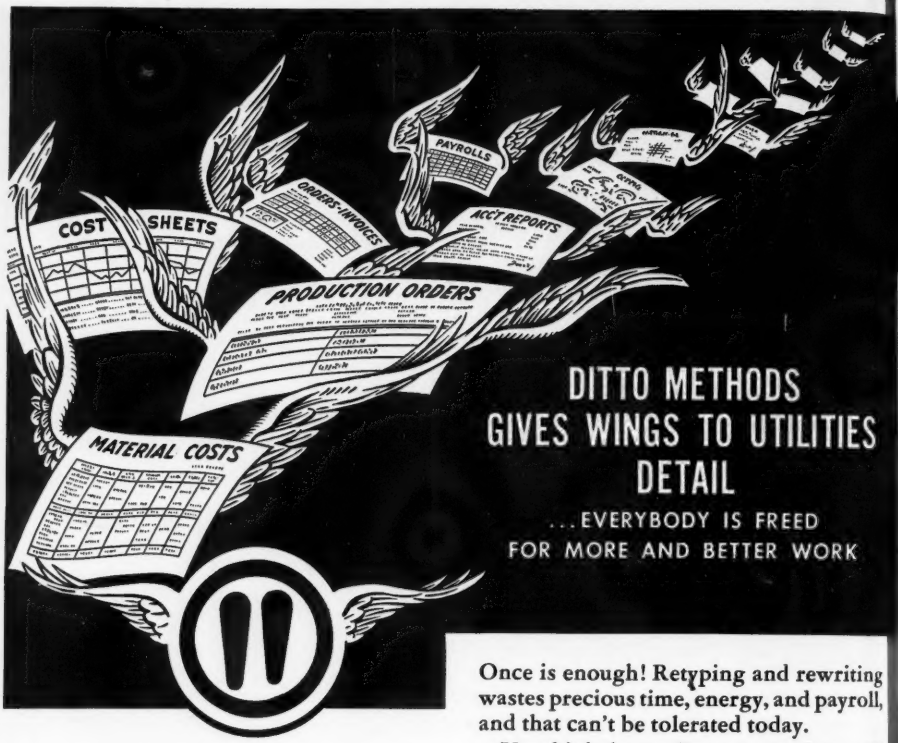
It is the choice of industry's leading engineers who use them on important applications, where dependable control of pressure, temperature and liquid level is essential. A considerable number of these applications are playing a vital part in America's National Defense.

The name "Mercoid" is an emblem of Craftsmanship in fine automatic control instruments.

The mercury switch, an exclusive feature in all Mercoid Controls, insures added safety and longer control life.

Whenever there is a question of automatic controls, Mercoid is the answer.

Write to The Mercoid Corporation, 4201 Belmont Avenue, Chicago, Illinois, for booklet, "What You Should Know About Automatic Controls."



Once is enough! Retyping and rewriting wastes precious time, energy, and payroll, and that can't be tolerated today.

Yet think how all or part of payroll figures, accounting data, accumulative reports, rate schedules, service forms, reports, and the like, are copied and recopied before the operation is finished!

That's why the ERRORLESS Ditto methods multiply the effectiveness of your people—getting MORE and QUICKER and WHOLLY ACCURATE work done. Adapted to your present system, Ditto can work wonders!

GELATIN AND LIQUID MACHINES—Because Ditto leads, Ditto offers most advanced types of both gelatin and liquid duplicators.

DITTO

FREE!

BE PREPARED!

Be informed! Send for studies, forms and manual of methods in actual use, proving Ditto's speed and economy!...DITTO, Inc., 643 S. OakleyBlvd.,Chicago,U.S.A.

DITTO, Inc.
643 S. Oakley Blvd., Chicago
Gentlemen: Without obligation please send me:
( ) New Ditto Machine Data
( ) "Copies, Their Place in Business"
( ) Arrange a Ditto demonstration for me

My Name .....
Company .....
Address .....
City .....*County*.....*State*...

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Wage-Hour Manual

1941 Edition

Don't get into a jam with the wage and hour inspectors. Today there are seven times as many field men as a year ago. They are looking for errors in record keeping, for violations of minimum-wages, overtime, unnecessary exemptions.

Inspectors report that most employers mean to comply, that the tremendous number of violations are the result of inaccurate information. Be certain that you are right, that you have the correct and latest regulations and interpretations.

Wage and Hour Manual (1941 Edition) is just coming off the press. It goes into every regional office of the Wage and Hour Division. This Manual is so well organized, so complete and thorough that it is used by the Division in training new inspectors.

Widely Used

Already over 4000 corporations have ordered this new, up-to-date summary of all phases of wage and hour regulations.

Over 300 specific questions are officially answered, can save you much embarrassment and explanation.

Send for your copy today

Bureau of National Affairs, Inc.
2225 M Street, N. W., Washington, D. C.

Send me the 1941 Edition of Wage and Hour Manual at $5.00

( ) $5.00 is enclosed. Or ( ) Send C.O.D. and I'll pay the few extra cents collection charge.

Name .....Business .....

City .....State .....

AFTER five years of service—but to all outward appearances in excellent condition, this rubber glove reached the end of its useful career during a standard E.T.L. 10,000-volt test.

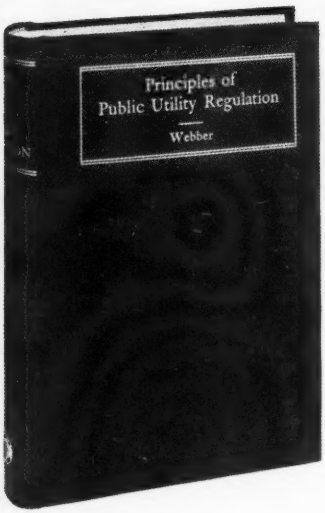
Power companies always have the problem of checking the safety of linesmen's equipment . . . and it's better to find out in the laboratory than on the "high line." Periodic checks of vital equipment at E.T.L. are inexpensive and good insurance against any future trouble.

Know by Test!

ETL
ELECTRICAL TESTING LABORATORIES
East End Avenue and 79th Street
New York, N. Y.

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

PRINCIPLES *of* PUBLIC UTILITY REGULATION



by

A. C. WEBBER

Former Chairman and Commissioner
Massachusetts Public Utilities Commission

It is a rare privilege to find, in readable form, the frank confessions of a commissioner whose aim has been so to coordinate the public administration of the regulatory law with the private conduct of the utility business as to encourage confidence and good will in the domain of both the investor and consumer.

Broadly viewed, this volume blazes new trails. It goes far in justifying the hopes of the pioneers of regulation that the experience of years, tested in the laboratories of the 48 states, might evolve a workable regulatory regime. It encourages the thought that the initiative, the inventive genius, and the capacity of our people working in harmony are the motivating forces of national progress. It sounds a note of political philosophy not uncommon in the field of administration, but rarely found in print.

"Principles of Public Utility Regulation" should be read, not only by commissioners and members of administrative agencies, but by students of government and economics, legislators, investors, bankers, utility men, engineers, accountants, attorneys and all others having an interest in the various concepts of public service.

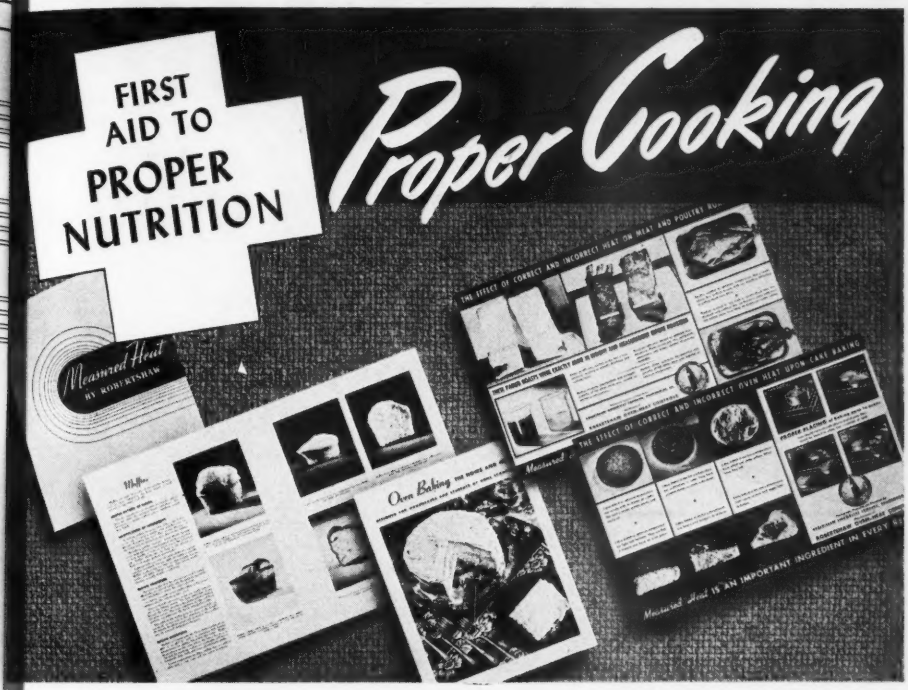
831 PAGES
BLUE CLOTH BINDING

$6.50

Order Today From

PUBLIC UTILITIES REPORTS, INC

Munsey Building • Washington, D. C.

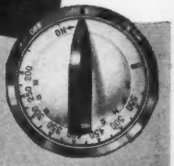


In the effort of the national defense program to produce a stronger, healthier, unconquerable America, this industry — dealer, utility and appliance manufacturer alike — can be counted on, as always, to do its part.

And there is much to be done. Great strides have been made in educating the public to the importance of minerals and vitamins in the daily diet. *But those minerals and vitamins must reach the table—and reach it in so attractive and palatable a form that they will be consumed!*

The secret is proper cooking. Behind that, proper equipment. And behind that, Measured Heat. In the interest of national defense, Robertshaw has prepared a complete Educational Service — profusely illustrated, clearly written — which will demonstrate immediately to your customers the importance of Measured Heat in cooking. A set is yours for the asking. Write to us today.

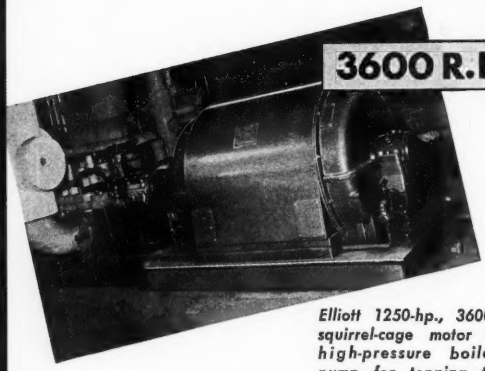
MEASURED HEAT
IS AN IMPORTANT INGREDIENT
IN EVERY RECIPE



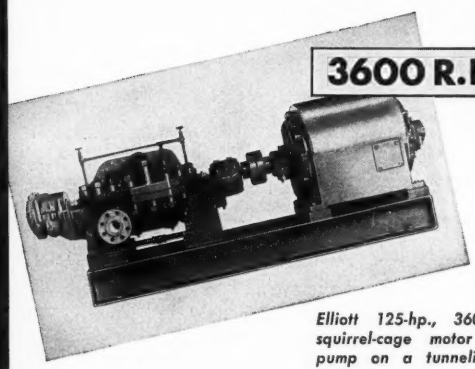
ROBERTSHAW THERMOSTAT COMPANY
Youngwood, Pennsylvania

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

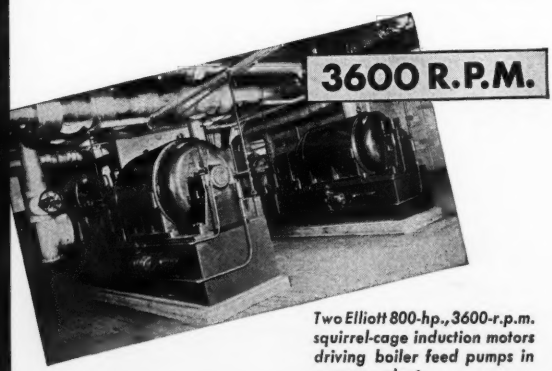
Driving big pumps at 3600 r.p.
calls for ELLIOT
MOTOR



Elliott 1250-hp., 3600-r.p.m. squirrel-cage motor driving high-pressure boiler-feed pump for topping turbine.



Elliott 125-hp., 3600-r.p.m. squirrel-cage motor for a pump on a tunneling job.



Two Elliott 800-hp., 3600-r.p.m. squirrel-cage induction motors driving boiler feed pumps in a power plant.

WHEN a 1250-hp., 3600-r. Elliott motor goes to work on a l pump, it's a safe bet that a l gallons per minute are goin start coming through — and on coming! These motors have ruggedness, the ability, to mai such a standard.

In the field of big, high-sp motors, Elliott stands at the Two-pole synchronous and squi cage induction motors have enviable record of outstan achievements in installations r ing from utility power plant underground tunneling jobs.

Elliott motors are designed the job they have to do whe it's furnishing power for a pu blower, pulverizer mill, or any o drive over 25 hp.

Ask the Elliott engineering s to help on your next motor sp fication. Write today for inter ing, informative bulletins.

ELLIOTT COMPANY
Electric Power Department
RIDGWAY, PA.
DISTRICT OFFICES IN PRINCIPAL CITIES

Utilities Almanack

OCTOBER

9	Th	¶ *American Water Works Association, Minnesota Section, starts convention, Minneapolis, Minn., 1941.*
10	F	¶ *National Safety Council concludes meeting, Chicago, Ill., 1941.* ¶ *League of Nebraska Municipalities ends convention, Lincoln, Neb., 1941.*
11	Sa	¶ *Virginia Independent Telephone Association will hold meeting, Roanoke, Va., Oct. 23, 24, 1941.*
12	S	¶ *American Society of Mechanical Engineers starts convention, Louisville, Ky., 1941.* ¶ *League of Virginia Municipalities convenes, Virginia Beach, Va., 1941.*
13	M	¶ *EEI Electrical Equipment Committee convenes, Cleveland, Ohio, 1941.* ¶ *Amer. Water Works Asso., Southwest Sec., convenes, Fort Worth, Tex., 1941.*
14	Tu	¶ *U. S. Independent Telephone Association convenes, Chicago, Ill., 1941.* ¶ *National Electrical Wholesalers Association opens meeting, Detroit, Mich., 1941.*
15	W	¶ *American Society of Civil Engineers starts fall meeting, Chicago, Ill., 1941.*
16	Th	¶ *Independent Pioneer Telephone Association opens meeting, Chicago, Ill., 1941.* ¶ *New England Transit Club holds session, Boston, Mass., 1941.*
17	F	¶ *American Public Works Association will hold conference, New Orleans, La., Oct. 26–29, 1941.*
18	Sa	¶ *League of West Virginia Municipalities opens meeting, Morgantown, W. V., 1941.*
19	S	¶ *American Welding Society starts session, Philadelphia, Pa., 1941.*
20	M	¶ *American Gas Association begins annual convention, Atlantic City, N. J., 1941.*
21	Tu	¶ *National Electrical Manufacturers Association will hold meeting, New York, N. Y., Oct. 27–31, 1941.*
22	W	¶ *The American Municipal Association starts meeting, Chicago, Ill., 1941.*

Photo by H. Armstrong Roberts

Rails and Power

Public Utilities
FORTNIGHTLY

VOL. XXVIII; No. 8 OCTOBER 9, 1941

"Cap" Krug Now Pitching

Background and work of the Coördinator of Defense Power for the OPM whose assignment is to get power where and when it is needed for defense purposes.

BY HERBERT COREY

"CAP" Krug said that the way he looks at it, it is just another job.

"Not much difference," he said.

Six feet three inches tall, weight 230 pounds, only 10 pounds over at the belt, thirty-four years old. Does not drink. "Maybe a glass of beer on a hot day." No ash trays on his desk. The desk is in a corner of a bare room in the huge OPM barn, which it ravished from the Social Security Administration. There are four other desks in the room and some nonsocial wooden chairs. On his desk are two telephones which seem to be more or less constantly ringing. When he speaks over one he is concise and informed. While I sat on the fourth hard chair, the East coast, the West coast, New York, a place in the South, and several offices in Washington called him. It was half past five o'clock, an hour and a half later than the official end of the Washington day. He said:

"They are not allowing themselves enough time."

"I'll look into that. I think he is wrong."

"They can't do it for that money."

"Tell them to go ahead."

"No. Yes. No."

He is the Coördinator of Defense Power, by appointment of the OPM, collaboration of the FPC, hearty coöperation of the TVA, and acceptance

by the President. Later on the story will be told of how and why that appointment was made. His job is to put into practical operation the plan devised by C. W. Kellogg of the Edison Electric Institute, during his connection with the OPM, in the making of which plan Krug collaborated. It is assumed that he will have the support of the privately owned utility industry. He has the authority to enforce any orders he may give.

THE plan had its origin when the discovery was made that the defense program has no visible limits. At the time that Congress made its first authorizations and appropriations for defense expenditures the utility industry was prepared to meet any demands for power that then seemed possible. But the defense program expanded like a filling balloon. The United States, the President said, was to become the arsenal of democracy. It was impossible to foresee what demands would be made on us by the nations of Europe. Britain wanted everything we could make. We were simultaneously called on to create an Army of from two to four million men, double the Navy, transform our peace industry into a war industry, and undertake a production program of war goods that might run through 1946.

If we in fact face a 5-year war production program then there cannot be too much power. It is imperative that our power output be added to as a safeguard against that 5-year-long possibility.

Public power partisans urged that government take over complete control of the utility industry. That was soon seen to be impracticable. Secretary of the Interior Ickes had in preparation a plan to be submitted to the President, which would give him control over all power, with authority to issue orders from Washington. The Federal Power Commission, of which Leland Olds is chairman, had been making a study of the situation, and beat Ickes to the President's desk with a plan of its own which resembles the Kellogg-Krug studies. In sum it calls for a common-sense coördination of all power sources, whether public or private.

IT is the duty of OPM to designate areas for defense production, and the FPC therefore proposed to locate or expand power production facilities in accord with OPM's decisions. Nothing could be done either to create new power or erect new factories unless OPM granted priorities. In Mr. Olds' report to the President he observed:

"The FPC has a working liaison with the OPM on this matter, as well as on the determination of the necessary priorities."

The FPC-OPM plan divides the country into three regions. The southern pool includes the eleven southeastern states; the northeastern pool New York, Pennsylvania, New Jersey, and New England; and in the Southwest a new network of transmission lines permits a giant power pool in Arkansas, Oklahoma, Texas, Louisiana, Missouri, and Kansas. Agreements have also been made with the TVA and other important sections of the country, and for the installation of additional units in Grand Coulee, Bonneville, and Boulder dams.

"Without exception," said the OPM in an official statement, "the great power suppliers—including the private

power systems, have pledged and given their whole-hearted coöperation in this emergency program."

These arrangements make it possible to utilize almost immediately the maximum capacity of the existing power installations of the country.

MR. Krug is given full responsibility in this field by OPM. The FPC had worked out a plan for 180 steam-electric and hydroelectric projects which could be advantageously operated in the defense plan which anticipates the annual production of 2,500,000 kilowatts of new steam and 1,000,000 kilowatts of new hydro power. These should all be completed by the end of 1946. Utilities, whether publicly or privately owned, are given the opportunity to undertake the commitment either directly or on a lease-purchase basis, for any units which will be provided for their respective systems. The money is to be provided by a subsidiary financed by the RFC on the recommendation of the Federal Power Commission. The OPM will, of course, have absolute control of the program through the granting of priorities, and in this instance Mr. Krug will be the OPM. In accordance with the program and schedule prepared by the FPC, various agencies of the government—the TVA, the Bureau of Reclamation, the U. S. Corps of Engineers, and others—will be directed to construct a series of river basin projects calling for the installation of approximately 1,000,000 kilowatts a year.

"This plan," according to Mr. Olds, "is based on the necessity of preparing for defense expenditures which by 1943 will be running at $3,000,000,000

New Set-up Within Office of Production Management

HEAT, LIGHT, AND POWER SECTION

(*Materials Division*)

		On leave from—
Section Director and OPM Coördinator for Defense Power	J. A. KRUG	TVA Manager of Power
Production and Transmission	J. E. MOORE	Ebasco Services, Inc.
	W. S. PETERSON	Los Angeles Power & Light Bureau
" *Northwest*	SOL SCHULTZ	Bonneville Power Administration
Priorities	DR. JOHN C. PARKER	Consolidated Edison Co. of New York
	FREDERICK SCHAFF	Superheater Co.
	HARRY W. SCOTT	Union Electric Co. of Missouri
	WILLIAM ZEPP	OPM Priorities Division
	MANLEY GOODYEAR	OPM Priorities Division, Legal Staff
Consultant on Municipal Plants	WILLIS J. SPAULDING	Springfield, Ill., Municipal Plant
Attorney	HERBERT MARKS	Staff of OPM General Counsel (John Lord O'Brian)
Chief Statistician	BARKLEY SICKLER	Bonneville Power Administration
Consultants on Power Requirements	EDWARD FALK	Consolidated Edison Co. of New York
	CONSTANTINE BARRY	Philadelphia Electric Co.
	GEORGE BUCK, WALTER CAINE	Federal Power Commission

a month. Translated into power this means a defense load of approximately 20,000,000 kilowatts, of which 11,000,000 kilowatts is assumed to represent displacement of normal load."

IF Mr. Krug's job only comprised the linking together of existing utilities, public and private, it would be a bigger job than any man has ever had in dealing with the utilities in any country. His assignment is to get the power where it is needed when it is needed for defense purposes. To do this he has no thought of personally bossing the three regions or assigning sub-bosses to them. The connecting lines, he said, will be for the most part built by the utilities themselves.

"Where they need money they'll get it."

So far the interconnections have been voluntary.

"If a company is not willing to coöperate the FPC has full power to order it, and to fix the compensation. Utilities needing power can make voluntary arrangements with other systems in the pool, but if interconnected systems are not willing to transfer power to the places where it is needed, the FPC has the authority to do it, and I think the OPM also has authority under some of the general defense acts."

That is not all of Krug's job. Factories are to be built—perhaps out in the desert—where no power exists. OPM will determine where these are to be built with reference to transportation facilities, raw materials available, and also to their usability when the emergency ends. The power must be provided long before ground has been broken for the factories, for from eighteen to thirty months are required for the economical installation of generating facilities, while a factory can be constructed in from six to twelve months.

THE procedure then will be that OPM will decide on a factory-cum-power location from FPC's chart of 180 possible places; RFC will advance the money; and Krug will superintend the whole vast operation. This includes the construction of interconnections and the use of temporary local surpluses to facilitate operation with the minimum of generating station reserves. Without some central control nothing but confusion could result. Krug is the central control. He will be able to decide what is to come first and through OPM's mastery of priorities he can make his ruling stick. Meanwhile he will ration power if and when he finds it necessary.

"To take aluminum for an example: In ordinary times the producers of aluminum could use lots of secondary power. These are emergency times. The producer must have power to go on making aluminum—he has no secondary power to draw on—and so he must be given power from some other source."

If there is not enough power available to permit the operation of the defense industry and carry on with the ordinary civilian uses, the civilians will go short. That is pure common sense, said Krug. He has no desire to be a czar. No man who has any of the makings of an autocrat would sit in a corner of a large room in which he shares with other people a complete lack of privacy. Washington precedent being what it is, Krug could probably

The FPC-OPM Defense Plan

"THE FPC-OPM [defense] plan divides the country into three regions. The southern pool includes the eleven southeastern states; the northeastern pool, New York, Pennsylvania, New Jersey, and New England; and in the Southwest a new network of transmission lines permits a giant power pool in Arkansas, Oklahoma, Texas, Louisiana, Missouri, and Kansas."

move into a suite in an air-cooled building and have a green carpet spread under his feet. He gets along very well where he is. After all, as he remarked, he is at work on a job. One job is much like any other job, only occasionally harder. No more hours are involved, because Krug always worked all the hours available. He does not get tragic about this, however. There are officials in Washington who work as many hours as Krug, but some of them have that martyr look in the eye. There is a suspicion among his intimates that Krug really likes work. But here is the complete tip-off on Julius A. Krug:

EVERYONE speaks of him as "Cap." The explanation of the nickname seems simple enough. He was born in Madison, Wisconsin, a college town of excellent business, lovely lawns, cold winds, and a fine, steaming summer heat that on occasion turns bone to rubber. His father was also Julius A. Krug, state highway engineer, and a busy man. When young Julius grew up enough to go to college, which must have been almost at once, for he was a behemoth of a boy, the people of Madison perplexed themselves when they referred to father and son. Julius Krug was at once highway engineer and captain of the basketball team. It was perfectly natural that by and by those who spoke of the highwayman called him Julius, and those who talked of the basketball Julius called him "Cap." The nickname stuck. He is known as "Cap" in the TVA and the FCC and the OPM and the FPC and the AT&T. And, as has been previously stated, he is now thirty-four years old. This indicates a high degree of sustained speed.

The indication is probably false. Krug is not so fast as he is practical. Those who have watched him travel are divided on the question whether he has an alert mind. To be more precise they admit that his mind is alert but

they differ as to the quality of his alertness. But all emphasize his extraordinary common sense. He is first and foremost an engineer. He considers engineering problems without reference to sentiment or personalities. If he is directed to do a given thing he sets about doing it within the allotted time. He does not sound off about it. He is, for instance, quoted as saying that the St. Lawrence project is feasible and when completed could be of value. He did not, so far as research discloses, say whether it will be worth the cost, or what its effect on surrounding business might be. It might be observed that it is unlikely that a Coördinator of Power Defense would have been selected from the ranks of those who think the St. Lawrence scheme, the Florida ship canal, and the Passamaquoddy project should be equipped with plenty of stiff blank paper and some sharp scissors.

IT might be said that Krug worked his way through the Wisconsin University at Madison, but it would not be strictly true. The Krugs were members of that fortunate class of Americans who are not rich but have automatic heaters in their cellars and roses in the backyard and magazines on the parlor table. Young Julius worked in a service station at one time, and in other jobs at other times and cut lawns and shoveled snow and made himself otherwise useful in many ways—for pay—while he was at school. He was a rated college athlete, too, having a large, fast body and a mind which was sufficiently alert to see what the other fellow planned to do and then murder him. It was about this time that another young man got his start in the utility business. David Lilienthal had been a lawyer in Chicago and shown quality in handling legal matters connected with utilities, and in 1931 was asked to become a member of the Wisconsin Public Service Commission. Wisconsin called for some reforms. Fresh from an inquiry into telephone conditions in Chicago Lilienthal was the man to produce them.

Krug had made a study of utility management and operations in college and when he graduated with senior honors in 1929 was granted his Master's Degree in recognition of a thesis written on this. He was promptly taken over by the Madison Gas and Electric Company—"one of the best operating companies," Krug says—and drafted bills for submission to the legislature correcting abuses which had grown up in the relations of the industry and the state. The evidence is that it was at this time that he got acquainted with Lilienthal. At any rate he became research assistant to Dr. E. W. Morehouse, director of rates and research for the Wisconsin PSC in 1931, and in 1933 became rate analyst for the commission. Two years later he was chief of the depreciation section. In 1935 the FCC wanted a good man to look into public utility matters.

"Krug's good," Lilienthal reported.

THESE jobs do not go by favor. Krug made application and named two professors of the Wisconsin University as his references. Commissioner Paul Walker of the FCC was impressed and accepted him. Walker was in charge of the public utility section of the FCC, and when the long-lines investigation of the AT&T was ordered Krug directed it. Walker will

tell anyone he was good. "Happy" Chandler, now United States Senator, was then governor of Kentucky and, for this reason and that, was not happy about the state's telephone relations. He called on Walker for help:

"We'll loan you Krug for two weeks," said Walker. "Can't spare him for longer. He can get your folks organized in that time."

Chandler took Krug on those terms.

"We've all heard a good deal about how politics is a factor in state affairs," said Krug. "I heard nothing about politics from Chandler. One day he called me in to say that he wanted me to take the job as special consultant and technical adviser for the Kentucky PSC, and said nothing about politics. He didn't ask me to promise anything. We talked for a time about the job and I said I'd take it if the FCC agreed."

Walker objected. He needed Krug in Washington. But Chandler was insistent and the FCC released him in 1936.

THE TVA was going great guns at this time and Kentucky is more or less in the TVA area. When Lilienthal wanted a special adviser on power planning he called Krug in. Paul Walker in the FCC objected that he had a prior claim on Krug but gave way good-naturedly. Krug went to the TVA in 1938 and a year later was Chief Power Engineer. Offside opinion is that he moderated the TVA heat through his friendship with Lilienthal. This may not be justified. The earlier storm period in TVA had passed, Wendell Willkie and the Commonwealth & Southern Company were reaching an understanding with the authority, and it is possible that Lilienthal's initial belligerence had cooled off because he was no longer under a forced draft. It is also possible that the Engineer's calm presentation of rates and measures made its impression on Lilienthal's legalistic mind. Take it any way you wish. They are good friends and collaborated comfortably. Krug looks back happily on his association with TVA. He speaks with pride of the fact that it is the fifth largest generating system, turning out 900,000 kilowatts.

"It has a small group of engineers and operating men," he says, "but they are all competent."

That sentence probably contains a clear exposition of Krug's philosophy. He is primarily an engineer. He is certainly not opposed to public power ownership but neither is he a crusader against privately owned utilities. He sees no reason why public power and private power should not get along together. He would produce power where needed at the least cost per kilowatt thousands and sell it at a price that would extend its market. In his present position as Coördinator of Defense

¶ "THE *FPC had worked out a plan for 180 steam-electric and hydroelectric projects which could be advantageously operated in the defense plan which anticipates the annual production of 2,500,000 kilowatts of new steam and 1,000,000 kilowatts of new hydro power. These should all be completed by the end of 1946.*"

Power he has surrounded himself with a group of competent men from the government on the one side and private utilities on the other. All the present indications are that operations will be harmonious.

IT is not possible, of course, to say what may be the ultimate effect of the emergency expansion of the utility industry.

It is theoretically possible that because the money which makes this expansion possible will be furnished in large part by the government, the added facilities may in the end be owned or definitely controlled by the government. It has been estimated that in that event the publicly owned facilities will be sufficient to normal requirements, leaving the privately owned utilities on the end of a limb. Some might survive because of favorable locations. Others might be compelled by inexorable force to surrender to the public ownership forces and salvage what they can. The task of prophesying would be made easier if one could guess at what might be the conditions in this country at the end of the European war, or even if one could foresee when that end will come and to what extent we will be involved in it. The private utilities are distinctly not happy about the distant future.

That is no part of "Cap" Krug's worries at this time. He is spending his energies ten hours a day, flying in planes by night, on the job of producing new power for the emergency and dovetailing the present sources of public and private power. Through control of priorities, in liaison with Donald Nelson, Director of Priorities for the OPM, and with the aid of money to be furnished when needed by the RFC, and the close collaboration with the FPC, he is in complete control of the situation. No one can say no to him. But no one thinks that Krug would ask anything that could not be done. Common sense again.

THERE is, of course, a highly irascible cloud on the horizon.

The full story of the dash for the White House by Secretary Ickes of Interior and Chairman Olds of the FPC may never be told. So far as can be seen Ickes did not have his foot on the bag when the ball was caught. He had planned a plan which was to make him czar of all the utilities, public and private, and a plan which had that end in view rather than a plan for the close and practical production of more defense power. But the FPC had been studying the power situation for two years, had its plan fairly well complete, and when Olds got word of Ickes' intentions he dropped his document on the President's desk. The story goes that he almost fought his way in, against all the secretaries and stenographers, but this is probably an exaggeration. In any event he got there.

Ickes has not given up. He has submitted to the Senate a list of sixty western projects which he would like to construct through the Bureau of Reclamation. If these are accepted he would still be very much in the picture, for he now has control of the larger hydro projects in the West. But the power shortages are mostly in the East, so far as defense needs are concerned, and President Roosevelt seems as yet inclined to stand by his assignment of authority to the OPM and the FPC.

"CAP" KRUG NOW PITCHING

In previous contests of will power Ickes has shown discretion in opposing presidential decision. And now that the gossiped about reorganization of the OPM has been ordered it has been a reorganization at the head and there is not at present any suggestion that Krug and his well-ordered plans will be interfered with.

"Norris is a lovely little town now," said "Cap" Krug. "I'd like to get down there more often than I do."

That's where Mrs. Krug and the two children are.

The Case for the Utilities

"PEOPLE *are not interested in our [utility industry's] tax burden; they have one of their own. They can't see what they have to lose from the battle against high rates. Private initiative? Socialism? Dictatorship? TVA? All these are distant and obscure. Rates are here today in the home and the store. And every crossroads merchant has an unfair competitor much closer to his heart and mind than our business will ever be. He is just not interested. He believes to a greater or less degree that somehow his day-to-day welfare is tied in with what happens in Tennessee or on the Columbia river; that the biggest dam in the world means something to his health and happiness; and that the stringing of wires to obscure farms will bring to his modest little cottage on Main street some beneficence, though he knows not what it is. The customer very frankly wants lower rates, but he will insist that his brand of service be not impaired. He has seen us rush to court with each new threat and thinks we are going over his head. It is our challenge to quit thinking of the public in the singular—something to be dealt with as a whole—and reduce our service to its least common denominator: the individual and immediate needs of the people who buy our service. Hold the legal front as best we may; cover our retreat before political bureaus and pressures (if retreat we must) as firmly and manfully as possible; but let us, too, become intensely active on the home front where, in the final analysis, the case will be decided.*"

—TOM P. WALKER,
President, Gulf States Utilities Company.

How Competitive Bidding Helps Big Buyers of Securities

Besides adding greatly to the expense and waste motion of security distribution, says the author, it promises to react against the interests of the vast majority of utility bond buyers in their efforts to secure utility bonds and to give a handful of very large financial institutions an opportunity to monopolize purchase of such securities, thus threatening to perpetuate the most objectionable feature of the private deal.

By FERGUS J. McDIARMID

It is probably too early as yet to pass final judgment on the idea of competitive bidding in the sale of public utility securities as decreed by the Securities and Exchange Commission. However, some of the practical problems which this procedure is likely to involve are beginning to emerge.

There seems no better way to illustrate these problems than by referring directly to the story of one of the first large issues of utility bonds to be sold under the new regulations. These bonds were sold by a large operating utility of New York state which does mainly an electric business. The purpose of the issue was to refund an equal amount of higher coupon bonds. The company also sold a large preferred stock issue, partly for refunding purposes and partly to raise new capital.

A week or ten days before these securities were due to be sold competitively, potential ultimate purchasers of the bonds were approached via telephone, telegraph, teletype, or by letter by representatives of various bond houses. The story which these gentlemen had to tell was a bit nebulous. They usually reported that their house was a member of a certain syndicate which expected to bid for the bonds. They wanted to learn if the potential buyer had any interest in the issue and if so on what terms. They expected, or rather hoped, that the bonds would come to yield 3 per cent or a little more; but they couldn't, of course, guarantee anything.

At this point the buyer, if he worked for a financial institution, would have to draw together such threads of information as were available and present the matter to his finance committee. Let us assume that he obtained approval to purchase $500,000 of the bonds provided they yielded 3 per cent or more. It was then up to him to go ahead from that point.

Why wouldn't he simply wait until

the bonds were placed on sale by the winning syndicate and then buy bonds? Experience has shown that if the bond issue is a desirable one, this procedure is likely to yield only a fraction of the bonds required. Bonds are put aside by the dealers for those who indicate an early interest. In the case of the recent popular Union Electric issue, for example, the fellow who waited till the day of the offering to buy a large block of the bonds would have been lucky to have come out with a tenth of his requirements.

At best the buying of a large block of bonds on a public sale is a wasteful procedure. Telephone calls must be made to a long list of dealers, many of them in distant cities, lining up 15 bonds here, 10 there, and 5 somewhere else. Each small block of bonds thus purchased requires on the average more than one call. The fact that the cost of these calls falls on the bond houses does not make the procedure less wasteful. In normal times this is bad enough, but in a period when the long-distance trunk lines are loaded down with calls arising from the national defense program it is doubly objectionable.

All of that is bad enough, but now consider the situation which arises under competitive bidding. In order to protect himself it is now necessary for the bond buyer to give indications of interest not to one long list of dealers, but to as many such lists as there are syndicates in the bidding. He must be prepared to fill his bond requirements from any one of the syndicates in the bidding, depending on which syndicate wins the bonds. This, of course, tends to multiply all of the usual mechanics of bond buying by the number of bidding syndicates. Also care must be taken to list each bond house with its proper syndicate lest the bond buyer overorder from one, and underorder from another. Since these syndicates are not static, but in a state of flux, this matter alone presents its problems.

In the competitive bidding situation which I am using as a guinea pig in this article, there were three syndicates of bond houses in the bidding. It was, therefore, necessary for the prospective buyer to give indications of interest to three separate groups of dealers. Came the day of the bidding and it was announced that no bids should be accepted because all bids covered the bonds only and not the preferred stock. A day or so later word circulated that all of the bonds, to the tune of some $35,000,000, had been awarded to a single large life insurance company on a yield basis of approximately 3.04 per cent.

We are now in a position to analyze the effects of this whole procedure on the various parties involved. The large life insurance company, which got the bonds, was a beneficiary, it would seem. At the end of 1940 it had owned only $1,817,500 of the old bonds which were to be called, so that it made a net gain of around $33,000,000 toward the solution of its investment problem and at a rate of return which in these times must be judged relatively satisfactory. The public utility may have benefited slightly in so far as it was able to borrow at a slightly lower rate than might have otherwise been the case.

On the other hand, certain other parties seem to have fared rather badly. These include the holders of the

bonds to be called, which, with one exception, had no opportunity to continue their investment in this utility. Out of the three bond issues called, approximately 235 individual blocks of bonds were held by financial institutions. Allowing for the fact that some of these institutions held part of more than one issue it is very probable that at least 150 different insurance companies, savings banks, trust companies, fraternal societies, and colleges were squeezed out. And to these may be added a host of individual investors.

And then there were the investment bankers, poor fellows. I know it is against the rules to ever feel sorry for investment bankers, who, according to the movies at least, are all playboys copiously supplied with private yachts. However, in this case one was sorely tempted to shed a tear for them. Probably it will never be known how many thousands of dollars of long-distance toll charges they incurred in trying to round up potential buyers for the bonds which they didn't get. To this may be added other considerable expense and the value of their time. And bear in mind also that all of this totally unrewarded activity took place in the hottest and stickiest of summer weather. We understand that one of the three syndicates which bid unsuccessfully for these bonds was prepared to pass them on to its customers at a gross profit to itself of only 1.14 points.

THERE are in the United States only about five life insurance companies which are capable of swallowing whole a bond issue of the size dealt with in this article. But the appetite of these few large companies for new investments is quite remarkable. The total of their combined funds is currently increasing at the rate of about one billion dollars annually and the amount of their funds requiring investment in a year probably tops two billion dollars. When we recall that the total bonded debt of the electric utility industry is not over seven billion dollars and that of the telephone industry less than a billion and a half, it becomes clear that these few financial institutions are quite capable of absorbing a very large part, if not all, of public utility bond offerings. Moreover, in bidding for these offerings they hold a decided advantage over the investment bankers in that the latter must bid a price low enough so that they may resell the bonds at a large enough profit to cover the expense of distribution and the risk of underwriting. It seems likely, therefore, that under the new competitive bidding rules, as they now exist, a large proportion of new utility bond issues will be bid in directly by a

¶ "AT *best the buying of a large block of bonds on a public sale is a wasteful procedure. Telephone calls must be made to a long list of dealers, many of them in distant cities, lining up 15 bonds here, 10 there, and 5 somewhere else. Each small block of bonds thus purchased requires on the average more than one call. The fact that the cost of these calls falls on the bond houses does not make the procedure less wasteful.*"

few of the largest insurance companies.

The possibility of such a development serves to recall all of the objections raised against the so-called private deal, and some more besides. In an article published in the FORTNIGHTLY of January 30, 1941, the writer dealt with these objections in some detail. Probably the most obvious of them all was the seeming injustice visited upon the small and medium-sized investor in being denied an opportunity to invest in utilities whose bonds were placed privately with a few large financial institutions. There is evidence that this particular objection to private placements has engaged the close attention of the SEC.

CONSIDER, therefore, the situation of the medium-sized and small investor under the new competitive setup, and in this class we may include all investors other than the very largest financial institutions. He learns that a new utility bond issue is in the offing. It may be an issue of a utility in his own territory, one that he has had a long time familiarity with, and as likely as not one whose securities he or the life insurance company or bank he represents already owns. He would like to continue his own or his company's investment in this utility by buying the new bonds. To do so may involve getting the approval of a finance committee. In the past this was never done until there was definite assurance that the bonds would actually be available for purchase.

In the future, however, bond buyers all over the country will have to go through all the usual motions merely in the hope that one of the very large financial institutions will not step in and gobble up the entire issue. In addition a good many bond buyers are likely to see bonds which they would like to buy, but cannot, purchased by the big fellows at yields which they themselves would be glad to accept. Under such circumstances the process of competitive bidding would seem to weight the scales heavily in favor of the largest bond buyers and very much against the smaller fellow. For the great mass of investors in utility bonds the whole process of bond purchase will be made much more uncertain and less satisfactory.

NOW give a thought to the position and desires of the management of the utility selling the bonds. Some utility managements like to have as wide a distribution of their bonds as possible, particularly in their own territory. They see an advantage in this from a public relations angle and also from the point of view of keeping their credit established. Another school of thought sees no objection to having bonds all held by a number of life insurance companies. They then feel free to point out to the people they serve that as owners of life insurance policies they are part owners of the utility serving them. This argument obviously has most merit when the list of life companies owning the bonds is a long one, as has been the case in several of the larger and more recent private deals.

In the past utility managements have had a free choice as to which of these two plans of finance they would adhere to. Under the competitive bidding arrangement, however, this will apparently be no longer the case. If a syndicate of investment bankers buys

Increasing Number of Insurance Companies Taking over Bond Issues

"THERE are in the United States only about five life insurance companies which are capable of swallowing whole a [$35,000,000] bond issue. . . . But the appetite of these few large companies for new investments is quite remarkable. The total of their combined funds is currently increasing at the rate of about one billion dollars annually and the amount of their funds requiring investment in a year probably tops two billion dollars."

the bonds these will probably be distributed publicly. If the bonds are all bought up by one or more life insurance companies — well, that will be that.

What after all are the weighty arguments that can be mustered in favor of competitive bidding in the sale of public utility securities? There are, I believe, two main ones; namely, to see that the utility sells its bonds at as low a rate of interest as possible, and to make sure that the investment bankers, or certain members of that fraternity, do not wax too fat off the profits of utility bond underwritings.

CONSIDER the matter of the interest rate. The writer's views on this subject are probably a bit unorthodox and are based upon the broad question of equity rather than upon closely drawn legalisms. The utility bondholder is conceived to be not so much a lender of money as a long-time participant in the fortunes of the industry. The long-term nature of the bond contract and the usual lack of any substantial provision for amortization during its life seem to place him in such a position. To a considerable extent he shares the risks of the other classes of investors in the enterprise. Now it so happens that few electric utilities are earning less than 6 per cent on their depreciated investment and some considerably more. Due to extremely low interest rates the utility bondholder is today relatively poorly paid, considering the probable risks of his position. That he should receive a return of 3.1 per cent instead of being driven down to 3 per cent through competitive bidding probably, therefore, constitutes no grave injustice. This line of reasoning should appeal to those who usually express concern for the interests of the little fellow, for it is now primarily the

little fellow who through life insurance reserves or savings bank deposits provides most of the bond money for the utilities.

One might be tempted to take a different view of this matter if it could be demonstrated that there is any direct relationship between the rate of interest which a utility pays to its bondholders and the scale of rates which it charges the public. If anything, the reverse appears to be the case. Speaking quite generally it may be said that the parts of this country enjoying lowest electric rates have been the Southeast and Northwest, and the utilities furnishing these low rates have been paying old-time 4½ per cent and 5 per cent interest coupons. On the other hand, electric rates in New England tend to run high in spite of the fact that the bonds of the electric companies there bear for the most part low coupon rates. For example, Boston Edison recently issued 30-year bonds bearing 2¾ per cent coupons on a basis which yielded investors 2.53 per cent, and cost the company 2.57 per cent. The table on page 466 is interesting.

In drawing up this table all cities where a municipally owned plant exists were omitted. It should, of course, not be inferred that high coupons mean low rates and vice versa. In many centers such as Cincinnati and Cleveland both coupons and rates are low. It is, however, a point well worth noting that the competitive bidding for utility securities which has for some time prevailed in Massachusetts and New Hampshire has not noticeably resulted in especially low electric rates in those states.

And then there is another angle to this matter of interest rates. It is an old-time rule of finance that a new security flotation should be brought forth on a basis which is slightly more favorable to the investor than outstanding seasoned securities. No less an authority than the United States Treasury followed this rule a few months ago when it sold an issue of taxable 2½'s at par. These bonds have since risen greatly in price, a fact which will doubtless help the Treasury in the heavy financing which lies ahead. When through competitive bidding a utility security is priced to the public too high it is likely to drag on the market and lend a sour note to future financing by that utility.

Now let us consider the position of the investment banker: Any treatment of this subject would be incomplete without some reference to his changed status. Time was when he actually sold the bulk of new bond issues to a widely scattered clientele including a large number of individual buyers. That was before the large financial institutions, particularly the life insurance companies, became the primary market for utility bonds. Under the new conditions the investment banker has become increasingly an order taker, and his underwriting risk has probably diminished. Presumably, therefore, he may be expected to work on a smaller profit margin, and he has certainly done so.

Nevertheless, the investment banker still remains a necessary figure in our financial scheme of things although it would seem that his importance is diminishing. In performing his function he has large expenses to meet and he undertakes risks. The latter may not be fully realized until

City	Coupon Rate on Bonds of Serving Utility	Monthly Domestic Electric Bills* 25 kw. hr.	100 kw. hr.	250 kw. hr.
Portland, Or.	4½ and 5%	$.87	$3.00	$5.30
Bellingham, Wash.	4½, 5, and 5½%	1.13	3.30	6.40
Birmingham, Ala.	4½%	.81	2.75	6.13
Montgomery, Ala.	4½ and 5%	1.20	3.50	6.13
Boston, Mass.	2¾%	1.55	4.90	9.40
Fall River, Mass.	3⅛%	1.50	4.90	9.05
Manchester, N. H.	3¼, 3½, and 3¾%	2.00	5.00	8.00

* Federal Power Commission as of January 1, 1941.

a dud issue hits the market and the profits of several successful underwritings are wiped out at a blow.

The investment banker seems, therefore, to be entitled to a margin of gross profit. The point in question is whether under noncompetitive underwriting he has been getting too much profit on utility security issues. This is a matter on which the writer must rely quite largely on circumstantial evidence. Of all the representatives of bond houses which have visited our office in recent years, and there have been a good many of them, not one has yet turned down the offer of a free meal in the company cafeteria. There the food, it is true, is wholesome and plentiful, but hardly suitable for the epicurean tastes of those whose pockets are swollen with ill-gotten gains.

Writing in a more serious vein, it may be noted that in the past decade the mortality among investment banking houses has been high. Their business has been greatly reduced by private financing, and the mere possibility of such private deals as an alternative method of financing acts as an effective curb on the profit margin of the bankers. Most recently the apparent willingness of the RFC to purchase bond issues has had a similar influence. It would seem, therefore, that there are already in existence some more or less effective curbs on the profit margins of the investment banking houses, at least as far as public utility financing is concerned.

As for the tie-ups which may have existed in the past between investment bankers and holding companies, these are likely to avail very little in the future when the holding companies are broken up and control passes completely to the local managements. The utility manager in Indianapolis or Spokane, who as likely as not came up via the engineering route, will quite likely be able to resist the blandishments of any investment banker and to drive a hard enough bargain for his utility in respect to its bond financing.

In this article I have tried to point out some of the practical difficulties likely to accompany the sale of public utility securities by competitive bidding. This procedure seems likely to add greatly to the expense and waste motion of security distribution. It promises to react against the interests of the vast majority of utility bond buyers in their efforts to secure utility

bonds, and to give a handful of very large financial institutions an opportunity to monopolize purchase of such securities. In this respect it threatens to perpetuate the most objectionable feature of the private deal. The arguments favoring such competitive bidding do not seem to offset these rather practical disadvantages. In other words, the proposed remedy promises to bring into being evils more serious than those which it is designed to cure.

Post-war Planning

"WE must profit by the lessons of the depression, and do those things which will make it possible to employ profitably our man power, our vast natural resources, and our savings. Our goal will be a higher standard of living extended down to our lowest income group. If we use our intelligence, the possibilities of creating a better life for our 130,000,000 people are without limit.

"When peace returns, the way to achieve this objective will be found in the creation of conditions under which the reservoirs of private capital may be drawn upon and invested in capital improvements. To bring this about action will have to be taken in the fields of taxation, labor relations, hampering government controls of productive activity, government competition with private business, and national budget policy.

"Whatever the trend of events abroad, one thing is certain: Unless we in this country shall be able to make democracy function satisfactorily, some form of totalitarian government will take its place.

"The checks and balances by which our liberties are preserved rest upon the principle that the legislative, the executive, and the judicial branches shall be independent and of equal rank. It is of the utmost importance that we be alert to possible trends which might subtly undermine their independence, and pave the way for disaster to ride in from an unexpected quarter."

—M. ALBERT LINTON,
Chairman, Institute of Life Insurance and president of Provident Mutual Life Insurance Company.

The Future of Centralized Utility Management

An important question involving distinction between the function of holding companies and service companies under the Holding Company Act which requires that service to operating companies be rendered "at cost."

By LESTER V. PLUM and I. M. J. KAPLAN

In most discussions concerning the effects of the Public Utility Act on the status and welfare of holding companies, major attention has been directed to the provisions for integration and corporate simplification contained in the "death sentence."[1] Behind the maze of conflicting viewpoints concerning the logic and justice of integration, however, lie more basic issues concerning the appropriate *functions* of holding companies. Some of these issues have been revealed as a result of the SEC's efforts to enforce statutory provisions requiring performance of service and management contracts "at cost."[2] Because Federal regulation of service contracts is now attracting attention,[3] a discussion of broad implications appears fruitful, particularly in so far as some of the commission's decisions clarify the issue whether the holding company is to function primarily as an investment trust or as a control device, and indicate the scope and nature of control to be permitted.[4] The enigma regarding the logical function of public utility holding companies stems from what appears to be a simultaneous attack by the SEC from two directions. From the one direction, holding companies, as a result of being placed in the position of independent competitors in such matters as financing, are not only being stripped of many quondam functions, but also are apparently denied the last vestige of a management function by statutory provisions that prohibit them from performing any services for operating companies.[5] From the other direction, the SEC, by a strict interpretation of the "death sentence" in the UGI Case,[6] is refusing permission to "*control* one or more additional integrated public utility systems"[7] unless they lie within,

or contiguous to, the area in which the "single" integrated system is located.[8]

At first blush it would appear that holding companies are being reduced to the status of passive investment institutions while being denied any advantages that might accrue to them as investment trusts through reasonable geographical diversity of holdings. That holding companies exercise some kind of control, however, that denies them the status of investment trusts, was revealed when the SEC held that the loss of all voting rights on stock of a subsidiary held by UGI was not sufficient to divest the parent of control.[9]

The statement in this case that control "may exist from concern over . . . substantial investment" indicates the commission's attitude that ". . . a controlling influence over the details of management is not required so long as a controlling influence is exerted over policies,"[10] and suggests a new concept of holding company functions. But the full significance of this new concept is revealed only by analysis of issues involved in the commission's efforts to regulate the performance of service, sales, and construction contracts "at cost."

A common criticism directed against the servicing activities of holding companies was that those in strategic positions of control were able to impose a charge, the reasonableness of which could not be effectively determined by state commissions. The requirement of the Holding Company Act that all services be performed "at cost" implies that the problem can be solved by having the SEC "certify" to the states the true cost of all management functions so that state commissions can make reasonable allowances in *operating costs*. Although the probable difficulty of determining the reasonable cost of performing services, the principal outlay for which consisted of salaries, was recognized by thoughtful students of the problem, at least the commission could, it was thought, aid state commissions by assuring equitable allocation of total costs among the several subsidiary companies. What means was to be used to exclude all elements of "profit" from the salaries themselves, however, was not clear.

A suggestion that the basic problem could be solved only by relying on the forces of the competitive market was contained in the Trade Commission's report on utility corporations:

> Where the servicing company *controls* the serviced operating company, or where the two are under a common *control*, there can be no bargaining at arm's length nor power to secure for the operating company those terms that, while sustaining a fair rate of return to the holders of its securities, will work in the direction of the lowest possible service rates.[11]

However, if this criticism applies to all services of a managerial character parent companies must be denied the last vestige of control. It would seem that the essence of centralized management is control.

Prior to enactment of the Holding Company Act, some holding companies, to avoid criticism, created a device known as the mutual service company, owned by the operating companies, and automatically refunding to them any "profits" that might be earned. The essence of the idea was that the servicing organization should constitute a channel through which fees

and refunds might pass between itself and the operating companies, but should remain completely closed to the parent company as a means of siphoning money payments. The Holding Company Act provided for mutual companies but, curiously enough, left entirely undefined their characteristic features of organization, and failed to indicate whether holding companies would be denied all residual control. There was a suggestion, however, that the SEC, rather than holding companies, would police mutual companies in order to assure performance at a cost that "represents a reasonable saving to member companies over the cost to such companies of comparable contracts performed by independent persons."[12]

At the present time, out of 28 approved service companies, only 8 are mutual organizations, the rest being direct subsidiaries of holding companies.[13] The existence of this direct relationship has raised the question whether holding companies, if they are allowed to "profit" in any way from this control, may not be violating the spirit of the statutory provision that prohibits them from engaging in servicing activities. This question really applies to both subsidiary service companies and mutuals, since there is essentially little difference between the two types.

FROM the standpoint of ultimate control, the holding company may be presumed to control the mutual company through its control of the operating companies. On the other hand, from the standpoint of efficiency, subsidiary service companies, as well as mutuals, are required to service at "cost." To be sure, only in the case of mutual companies does the law require that the cost of servicing represent "a reasonable saving . . . over the cost . . . of comparable contracts performed by independent persons"; but indications are that the SEC in effect will extend this requirement to subsidiary service companies as well.[14] From a survey of industry opinion the authors have concluded that the only major reasons for preferring one type of service company to the other are that the subsidiary company is a relatively simpler form of organization, on the one hand, and that the mutual company is more apt to advertise freedom from holding company "domination," on the other. Some minor differences of opinion were encountered on the question whether there was any essential difference between the two types from the standpoint of control.

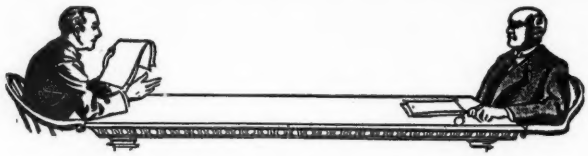
"FROM *the standpoint of ultimate control, the holding company may be presumed to control the mutual company through its control of the operating companies. On the other hand, from the standpoint of efficiency, subsidiary service companies, as well as mutuals, are required to service at 'cost.' To be sure, only in the case of mutual companies does the law require that the cost of servicing represent 'a reasonable saving . . . over the cost . . . of comparable contracts performed by independent persons'* . . . ."

Certainly, through neither type of service company does it appear possible for holding companies to siphon off money payments from operating companies. To be sure, when the service company is a direct subsidiary, the holding company advances capital, and the parent is entitled to a fair return on this investment.[15] But usually the capital is so small that opportunities for profiting from this investment outlet are distinctly limited. A survey of balance sheets in 1939 revealed that only three service companies had physical assets other than office furniture,[16] and cash assets used for working capital need not be appraised on a basis involving controversial valuation doctrines. The rate of return to be allowed may become controversial,[17] but at present only a few of the larger service companies pay any return on the investment of their parent. Some executives maintain that this gesture of altruism is worth more than the money income lost by foregoing a return on investment.

WITH such complete protection against collusive inflation of service charges and such far-reaching supervision over servicing activities in the hands of the SEC, the question whether holding companies are expected to perform any management at all is significant. Suggestive of the commission's answer to this question are recent decisions concerned with "profits" obtained by holding companies through *free services* from their own service companies.

The question arose from the apparent difficulty of allocating salaries of persons simultaneously occupying positions with both the holding company and the service organization. However, the importance of the question lies neither in the insuperability of the allocation problem, nor in the seeming niggardliness of the SEC, but in the implicit concept of a holding company function that is involved. Paradoxically, this function stands clearly revealed, with all of its economic implications, only when the commission indicates what comprehensive measures will be employed to create a complete diversity of personal "profit incentives" between the active owner-managers, represented by the holding company, and all the other economic interests that are entitled to make *prior* claims for a share of gross operating revenues.

BEFORE proceeding with details we will state the essence of the principle involved. The "profits" of the holding company arising from centralized management must be obtained in competition with all other economic interests, who are assumed to have superior rights to claim rewards; and the substance of the holding company function is to police and coördinate the activities of the operating managers, whose personal profit incentives, in turn, are diametrically opposed to those of the owners. When the significance of this ideal, involving diversity of economic interest between holding company managers and "operating" managers, is completely comprehended, full import is given to the statement of Benjamin Cohen that the Holding Company Act was designed to bring about "diversity of management," which may be "on the whole as desirable as diversity of investment."[18] Instead of permitting a complete



Subsidiary Company versus Mutual Company

". . . the only major reasons for preferring one type of service company to the other are that the subsidiary company is a relatively simpler form of organization, on the one hand, and that the mutual company is more apt to advertise freedom from holding company 'domination,' on the other. Some minor differences of opinion were encountered on the question whether there was any essential difference between the two types from the standpoint of control."

separation of ownership and management, the commission will apparently make a sharp distinction between operating (or service company) management and holding company management. As will appear later, the interests of *all* owners are assumed to be completely harmonized with the interests of holding company management, if any.

THE question of "free services" arose from the fact that six officers and directors of Electric Bond and Share also held positions with the subsidiary, Ebasco Services, Inc.[19] The salaries of these men, whose activities were of "benefit" to both companies, were thus charged in part to operating companies. Following the order of the commission,[20] the holding company ceased the practice of having common officers and employees[21]; but at the time the SEC initially raised objection the holding company defense apparently mistook the commission's attitude as an objection to the use of interlocking personnel as a device to control the service company.[22] Subsequent to the Ebasco Case, however, the SEC has permitted holding companies the choice of either divorcing their staff from that of the service company or of paying the entire compensation of all common employees and directors.[23] The primary objection seems not to have been directed to the use of interlocking personnel as a control device, nor to the size of the salaries paid to individuals, nor to the particular methods of allocation used, but rather to the sheer impossibility of allocating "costs" or "benefits" when a single natural person serves two masters with economic incentives as divergent as those of the holding company and of the service company. Indeed, where holding companies elect to divorce their employees from the subsidiary company, the commission promises to police the staff of the service company to see that they do not render any services of "benefit"

to the holding company.[24] The question of functions is involved. This issue is particularly important in the case of subsidiary companies rendering a "full line" of services, including the sort of "executive" management that might be considered an appropriate function of holding companies.

WHAT specific tasks the commission will eventually segregate as functions of residual management is not yet clear. The important thing is that the SEC will almost surely limit the functions of service companies. The significance of this method of regulating management, from the standpoint of incentives for efficiency, is not fully appreciated until one recalls that state commissions differentiate between operating costs and "fair return." The significance of the distinction is that operating costs are prior claims against gross revenues while "fair return" is a residual reward. It has never been clear whether the fair return, granted in theory to *inanimate property,* is merely an incentive for passive investment, or includes an additional reward for those owners who, because they get paid last, will shoulder the risks and undertake the active management of the enterprise—or at least exercise residual supervision over those to whom this responsibility is delegated.

State commissions have devoted so little attention to the problem of creating "profit incentives" that no clear-cut principles are evident. In some cases there are intimations that manipulation of the fair return to yield only a bare return on passive investment might be used to penalize the owners for failure to shoulder their responsibility of management.[25] However, by and large, state commissions provide incentives by making allowance out of operating expense for management salaries, including salaries paid to officers (even when large owners), and to lawyers and engineers preparing or presenting rate cases before commissions, or contesting regulation itself.[26]

BY drawing a sharp distinction between holding company functions and service company functions the SEC has indicated its belief that there are certain management costs that should be paid out of the fair return granted by state commissions. The commission, of course, cannot impose any functions upon holding companies, but it can deny certain types of functions to service companies. The fact that the "cost" of every activity carried on by service companies must in effect be "certified" to the states as a reasonable allowance in operating expenses may cause the SEC to exclude from service organizations all functions about which there is any doubt as to character. There is every indication that the commission is beginning to scrutinize very carefully the scope and character of functions now performed by large service organizations.[27]

To date the only clear class of expenditures that is to be excluded from servicing costs is that having a direct relation to maintenance of the holding company as a separate ownership organization. Thus, the United Light and Power Service Company has recently assumed the burden of paying all salaries of its own officers and directors, of those regularly employed in all executive and administrative duties, of those performing stock-transfer, auditing,

and accounting services for the benefit of the holding company, and of all persons employed as assistants to these men.[28] However, it is entirely possible that the SEC may conclude that executive services in general that relate to policy determination and thereby indirectly "benefit" the parent company are essentially holding company functions.

How flexible the concept of "benefit" to the holding company can become is illustrated by the experience of an executive who spent several hundred hours in connection with a refunding and new construction bond issue of an operating company. His compensation for this work was not certified as a proper charge to operating companies because the result of his efforts was to lower the interest rate, a result considered to "benefit" the holding company.

The writers have encountered rumors in the industry that the SEC may limit the functions of one large service organization to those of engineering and purchasing. There is no precedent for such action, because the commission has heretofore pursued a very liberal policy with respect to the scope of activities in which service companies may engage. Indeed, permission to organize service companies has been *pro forma*.[29] However, if the SEC should confirm the rumors in this case, the service organization might be asked to cease performing not only advisory functions pertaining to finance, as well as to corporate procedure, simplification, and integration, but also the following functions of operating management that are listed in the existing service agreement: promotion of operating economies, development of sources of power supply, budgeting, negotiation of large power contracts and interchange agreements, formulation of rate schedules, rate negotiations with regulatory authorities, labor relations, sales promotion, and load building.

Again we must emphasize that the commission cannot force holding companies to perform any functions. The trend in Federal regulation merely suggests that the SEC may hesitate to certify as a reasonable "cost" the salaries paid to persons who do not engage in a type of work that is sufficiently technical, specialized, or routine to enable the commission to compare their salaries with those paid for comparable employment elsewhere. Such a policy, as contrasted with the present sole reliance on publicity of salaries as a regulatory device, would seem to be consistent with the statu-

¶ *"... the commission [SEC] cannot force holding companies to perform any functions. The trend in Federal regulation merely suggests that the SEC may hesitate to certify as a reasonable 'cost' the salaries paid to persons who do not engage in a type of work that is sufficiently technical, specialized, or routine to enable the commission to compare their salaries with those paid for comparable employment elsewhere."*

tory requirement that service companies perform at a cost lower than that of comparable services from other sources. To the extent that the commission refuses to "certify" the cost of all management services the problem of providing "profit incentives" is returned to state commissions, and "profits" must be obtained by holding companies out of the "fair return."

It must be remembered that, since a fair return to inanimate property must in theory be shared equally by all residual claimants, even though these owners, while not inanimate, are largely inarticulate in management, any profits that holding companies can produce through efficient centralized management will accrue in equal measure to all owners, including those who invest directly in securities of operating companies.

In other words, holding companies must compete with operating companies in attracting risk capital; and if holding companies do not represent all the owners they must nevertheless bear all the cost of owner-management. Even if all holding companies become complete or substantial owners of operating company stocks, there will apparently be few ways in which parent companies can take advantage of the fact that many of their own security holders wish to remain passive investors. Without the usual corporate advantages of "trading on the equity" there is little hope of concentrating the profits arising from centralized management in order to provide incentives for those who have come to be known as "the insiders." This view is strengthened by a recent case involving the question of necessity for the existence of preferred stock in the capital structure of Commonwealth & Southern Corporation.[30] In spite of testimony concerning valuation and earning power of underlying properties that would presumably justify classification of stock, according to "ordinary" business standards, the SEC interpreted the language of the Holding Company Act to mean that "the mere existence of preferred stock does in some degree complicate the structure . . . and a reasonable *necessity* for such complication must appear before its existence can be justified."[31]

It would be unfair even to suggest that the commission is attempting to burden the holding company by loading it down with functions or is deliberately making the holding company fight for its life. The dynamite is in the terms of the law. The SEC is merely scrutinizing very carefully the functions that it will certify as "costs" through the service companies. There is much need for further action along this line. For example, the commission has permitted one large service organization to provide absentee management from New York for properties in Virginia, Georgia, Florida, Texas, Louisiana, Missouri, Nebraska, New Mexico, and Washington.[32] If holding companies are required to limit their holdings to integrated systems, it would seem even more imperative that service companies confine their activities to limited areas. The optimum size of the service company providing centralized "operating" management is probably sooner reached than the most efficient size of the holding company providing "executive" management, involving determination of general pol-

Competition in Attracting Risk Capital

". . . holding companies must compete with operating companies in attracting risk capital; and if holding companies do not represent all the owners they must nevertheless bear all the cost of owner-management. Even if all holding companies become complete or substantial owners of operating company stocks, there will apparently be few ways in which parent companies can take advantage of the fact that many of their own security holders wish to remain passive investors."

icies and coördination of local properties.

The essence of the SEC's ideal is to force holding companies to obtain their reward for efficient management out of net revenues going to owners. The functions of ownership and residual management are assumed to be completely united. To bring about this unification as well as to provide incentives for *reducing* operating costs, the commission will apparently make every effort to see that the holding company, as an organization of owners, will *get paid last* out of available operating revenues. It is interesting to note that the very controversial Rule U-51 recently proposed is consistent with this attitude, in so far as the commission may prevent holding companies from receiving any interest payments from operating companies so long as accumulated dividends remain unpaid on preferred stock of operating companies in the hands of the general public.[33]

In dealing with such intangible matters as incentives and the functions of management it seems unwise to attempt accurate prediction of the results of any specific regulatory policy. As the commission pares down the functions of service companies, the holding company may conceivably perform significant managerial functions for the purpose of reducing operating costs. This will be profitable, however, only to the extent that holding companies can successfully unify the interests of ownership and management by means of the corporate device, and to the extent that local regulation of utility rates provides an adequate incentive, through the fair return, for managers as well as for passive investors. To the extent that centralized management, through policy determination and coördination of operating properties, can succeed in reducing operating costs, holding companies may perform residual functions to decrease risks on investment.

It seems probable, however, that management functions will tend to become decentralized in the long run. An important factor is that managers, if employed by local operating companies, can usually get their salaries certified directly by state commissions as reasonable operating costs that must be paid prior to any reward on investment. Finally, there is always the possibility that some of the services now performed by centralized service organizations may eventually be obtained by operating companies from independent professional organizations, electrical equipment manufacturers, or financial houses.

ALTHOUGH the additional financial burdens that are imposed on holding companies by the SEC's refusal to certify certain costs involve only the bare expense of maintaining the corporation as a going concern, the principle that is involved indicates that there are certain presumptions against the holding company as a business unit. First, it must integrate its properties because it is presumed to control. Second, it must always get paid last, because it is an organization of residual income recipients, the owners. To predict what will happen to the public utility holding company would be unwise at present.

Footnotes

[1] Section 11.
[2] Section 13.
[3] See 17 *Journal of Land and Public Utility Economics* 27-38, 171-187; PUBLIC UTILITIES FORTNIGHTLY, Vol. XXVII, No. 12, pp. 707-720, June 5, 1941.
[4] The writers have conducted an independent investigation on the general subject of service companies, the factual results of which do not differ materially from those presented in *The Journal of Land and Public Utility Economics*. To the junior author, Mr. Kaplan, should go major credit for having made contacts with active members of the industry.
[5] See §§ 13 (a), 2 (19).
[6] *The Wall Street Journal*, June 4, 1940; January 23, 1941; April 16, 1941.
[7] Section 11 (b) (1). Italics ours.
[8] See Holding Company Release No. 2820, June 4, 1941, p. 2.
[9] Holding Company Release No. 2002, April 4, 1940.
[10] See Holding Company Release No. 1882, January 15, 1940, 32 PUR(NS) 130.
[11] Senate Document No. 92, Part 72-A, p. 664. Italics ours.
[12] Section 13 (d).
[13] 17 *Journal of Land and Public Utility Economics* 38.
[14] See Holding Company Release No. 1254, September 29, 1938, p. 4.
[15] Rule U-13-32 (a).
[16] 17 *Journal of Land and Public Utility Economics* 28, footnote 6.
[17] See Holding Company Release No. 2255, August 21, 1940, 35 PUR(NS) 258.
[18] 21 *Savings Bank Journal* 48, 55.
[19] *The Wall Street Journal*, February 16, 1940.
[20] Holding Company Release No. 2255, August 21, 1940, 35 PUR(NS) 258.
[21] *The New York Times*, December 4, 1940.
[22] *The Wall Street Journal*, February 16, 1940, p. 9.
[23] See, for example, Holding Company Release No. 2696, April 16, 1941, 38 PUR(NS) 272.
[24] Holding Company Release No. 2696, April 16, 1941, p. 9, 38 PUR(NS) 272.
[25] See Cedar Rapids Gas Light Co. *v.* Cedar Rapids (1909) 144 Iowa 426; Chicago & G. T. R. Co. *v.* Wellman (1892) 143 US 339, 36 L ed 176.
[26] See, for example, Bryant, J. M., and Herrmann, R. R. "Elements of Utility Rate Determination," 1940, pp. 179, 180, 199, and cases cited.
[27] Holding Company Release No. 2767, May 23, 1941.
[28] Holding Company Release No. 2608, March 7, 1941, 38 PUR(NS) 120.
[29] In only one case has the SEC denied the request of a holding company for permission to create a service company. However, this case does not appear to be significant as a precedent. See Holding Company Release No. 2096, June 5, 1940, 34 PUR (NS) 72.
[30] Holding Company Release No. 2831, June 19, 1941.
[31] *Ibid.*, p. 5.
[32] See Holding Company Release No. 1399, January 11, 1939.
[33] See *The New York Times*, June 22, 1941, § 3, p. 1.

Wire and Wireless Communication

THE National Labor Relations Board on September 24th announced an order directing the Southern Bell Telephone & Telegraph Company, Atlanta, Georgia, to completely disestablish Southern Association of Bell Telephone Employees and to invalidate any collective bargaining contract with that organization. Originated in 1919, the board found that the association was formed, "existed, and functioned only through the respondent's control, financial support, and sufferance."

With the passage of the National Labor Relations Act in 1935, the company, the board said, withdrew its more obvious financial support and made minor revisions in the association. However, the association continued, after the effective date of the act, substantially unchanged, and the company entered into a contract with it, made its membership and dues deduction campaigns possible, and extended it other support.

Only in February, 1941, did the company for the first time make an unequivocal announcement to its employees of their rights under the act. However, the board stated that the company failed to disassociate itself from the association by announcement of disassociation. Effect of the domination and support of the association prior to and during the years since 1935, the board's decision said, could only "under the circumstances, be dissipated by an explicit announcement to the employees that the respondent would no longer recognize or deal with the association."

THE board denied the company's and association's contentions that the results of a 1941 election, where a majority of the employees voted for the association, should be used in evaluating the association's status under the act. The board stated that aside from the fact that the election was conducted under unilateral auspices and was in no sense secret, since the ballots were required to be signed, it was of the opinion that the employees did not have free choice of employee representatives, and that the poll could not change the status of the association. The company also contended that it had engaged in "arm's length" bargaining with the association and relied upon the fact that it made concessions to that organization.

"The fact that the respondent bargained with the association and that the association procured benefits for its members is immaterial under the act," the board stated, "if the respondent has in fact interfered with, dominated, or supported the organization. We are convinced from the record that such interference, support, and domination has occurred."

The board also found that the company had engaged in other acts of interference, coercion, and restraint by certain actions of its supervisory employees, E. B. Mason, district traffic manager at Shreveport, Lora Sibley, long-distance supervisor, and Vivian McCain, employment supervisor, who endeavored to deter employees from joining the union.

The company contended that since it had 9,000 exchanges and more than 20,000 employees, the incidents at Shreveport were "trivial and unimportant." However, the board pointed to the company's preference for the association and the fact that the antiunion statements were made at a time when the union first made its attempt to organize the company's system.

Upon charges filed by the International Brotherhood of Electrical Workers (AFL), the board issued its complaint on February 17, 1941. Public hearing was held March 17th through 21st in Atlanta, before Trial Examiner Josef L. Hektoen. Mr. Hektoen issued his report on June 16th, recommending that the company cease and desist from certain unfair labor practices. Oral argument was held before the board in Washington on August 5, 1941. All parties were represented by counsel and participated in the hearing.

The company's principal office is at Atlanta, Georgia. It is one of 24 associated companies of the American Telephone and Telegraph Company. It conducts a general telephone business in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. As of March 1st, the company served approximately 1,375,000 subscribers, and its physical property and equipment represented an investment of approximately $315,000,000.

* * * *

A COMMITTEE of five appointed by the National Association of Railroad and Utilities Commissioners to coöperate with the FCC in telephone matters has begun conferences with the Federal body on the so-called "Beamish resolution." This resolution, introduced by Richard J. Beamish, member of the Pennsylvania commission, to the recent St. Paul convention of the NARUC seeks to obtain cut rates on long-distance calls by soldiers during off-peak hours. The resolution was referred to the committee of five by the St. Paul convention for appropriate action.

The committee had its first conference with the FCC early in September and adjourned with the understanding that the FCC, through its own experts and contacts with the War Department, would study the extent of new construction which might be required to carry into effect the proposed rate reductions to service men. The FCC would also study the effect of the Beamish proposal on the general service of the telephone companies involved.

A further joint conference is to be held when this information is available. It was agreed that this pending further study would not act as any obstruction to whatever steps state commissioners might propose to take with respect to intrastate toll rates along the lines suggested by Commissioner Beamish.

FCC members present at the September conference included Chairman Fly and Commissioners Walker, Craven, and Wakefield. FCC staff members present included Chief Accountant W. J. Norfleet, Assistant Chief Engineer A. W. Cruse, and Attorney Benedict P. Cottone. State commission representatives included Vice Chairman Jourolmon (Tennessee) of the committee of five, Commissioner Beamish, Secretary Ben Smart, and General Solicitor John E. Benton of the NARUC.

WITH respect to independent state commission action on the plan to get cut rates for long-distance phone calls by soldiers, the Pennsylvania commission rejected, 3 to 2, the motion of Commissioner Beamish to entertain such action. Thereafter Commissioner Beamish, in a letter to Major General Edward Martin, commander of the 28th Division encamped at Indiantown Gap, Pennsylvania, pointed out that the majority of three members opposed to the rate cut plan were Republicans (Chairman Siggins, Commissioners Morgal and Thorne), while the minority were Democrats (Beamish and Buchanan). He suggested that the commission's action, therefore, was the result of political division within the commission. Accordingly he appealed to the Army authorities to

bring independent complaints before the state commission to obtain the proposed telephone rate reduction.

Chairman Siggins, commenting on Beamish's letter, said that the majority was of the opinion that there was serious question whether an order directing a rate reduction for soldiers would be valid because of the possibility of unlawful discrimination.

One officer at the Indiantown Gap military post did file a formal protest against telephone rates with the Pennsylvania commission, but he did not seek any judgment on the issue of general rate cut preference for military men. The officer was Second Lieutenant Hall F. Gaynor, of Scranton, a member of the 109th Infantry, who complained against the charge of 25 cents for a 5-minute call between Indiantown Gap and Harrisburg. He said he thought that both the charge and the minimum time for the call should be reduced. He alleged that it sometimes took "from fifteen minutes to an hour to put through a call to Harrisburg" during the evening hours.

It is understood that the Tennessee commission is considering the proposition of cutting intrastate long-distance rates on soldiers' calls.

* * * *

THE New England Telephone & Telegraph Company will make a reduction in its rates for measured telephone service on October 16th which will result in an annual saving of $100,000 to subscribers in the metropolitan area, Thomas A. Kennelly, public utilities administrator of Rhode Island, announced last month.

Under the new schedule, applying only to users of measured service, the metropolitan area is enlarged by the addition of several exchanges and rates are reduced on calls in addition to the allotment of 90 provided at a flat rate. The plan is optional, and subscribers desiring to retain their present rates may do so, Kennelly said.

To the present Providence, Pawtucket, and Centredale exchanges now comprising the metropolitan area are added the Greenwood, Scituate, Valley, Warren, and Warwick Neck exchanges and measured service subscribers in the area would be permitted to call each other without incurring toll charges.

The present basic rate of $5.50 for 90 calls is charged, but instead of charging 4¾ cents for each additional call, business houses will pay 4 cents a call and resident subscribers will pay 3½ cents.

* * * *

JOHN J. O'Hara, chairman of the Michigan Public Service Commission, said last month that the commission had no present intention of requiring Michigan telephone companies to keep in line with interstate practice by abolishing report charges on uncompleted long-distance calls within the state.

O'Hara said that as a result of the "voluntary" removal of the report charge on interstate telephone service on July 10th, the commission called an informal conference of Michigan telephone company representatives to determine if similar action should be taken regarding intrastate calls.

According to O'Hara, the telephone company representatives said the report charges were necessary to prevent "rackets." He said the "independents" informed the commission that if the report charge were removed on intrastate calls, toll rates probably would have to be increased. O'Hara said some of the rackets mentioned were based on prearranged signals.

* * * *

WESTERN Union employees in thirty-seven western cities have voted to affiliate with American Federation of Labor unions, National Labor Relations Board regional officials announced last month. Outside maintenance workers chose the AFL International Brotherhood of Electrical Workers as collective bargaining agent, and office employees, engaged in traffic, commercial, stores, accounting, and purchasing departments, gave a plurality to the AFL Commercial Telegraphers Union. The

CIO American Communications Association was runner-up to the CTU.

Bargaining elections among outside plant employees were conducted in Phoenix, Los Angeles, San Francisco, Portland, Seattle, Salt Lake City, and thirty-one other cities. Office employees' election was voted only in San Francisco.

It was recently announced that Western Union employees in Providence, Rhode Island, would vote within thirty days to determine whether they want to be represented in collective bargaining by the Communications Guild, an unaffiliated group, by Federal Labor Unions (AFL), or by neither. The local election and others in Boston, Springfield, and Worcester, Massachusetts, were ordered on September 9th by the National Labor Relations Board.

* * * *

THE Mountain States Telephone & Telegraph Company was requested on September 19th by the state public service commission to put certain telephone rate reductions into effect or show cause why they should not be made. The request was submitted to Franklin S. Cundiff, Utah manager of the company, at an informal conference in the state capital. He assured the commission he would transmit the request to company headquarters at Denver.

Chairman George S. Ballif of the commission said that information obtained by the commission's engineering staff indicated that reductions would be justified. The staff has been making studies of the company's operations in Utah over a period of several years. Mr. Ballif said Mr. Cundiff was advised "that if the facts appearing from this information can be substantiated, rate reductions in substantial amounts are due the telephone users of the state of Utah."

The chairman declared that the commission "fully intends that the people of Utah shall have the benefit of rate reductions if warranted by the facts. If it is necessary to go into a rate hearing with the telephone company to determine what the facts are, then that will be done."

Information at hand indicates, Mr. Ballif said, that exchange rates in certain Utah cities are out of line, and that the mill rate for toll service is higher within the Mountain States Telephone & Telegraph Company unit of the Bell system than between the Mountain States and other units of the Bell system.

* * * *

THE Federal Communications Commission is holding in abeyance the radio network regulations which were to go into effect on September 16th, following a postponement from August 2nd. The commission said it would wait until a decision was reached on the petition presented by the Mutual Broadcasting Company for amendment of the rule governing option time.

In its announcement on August 28th of the hearing to be granted Mutual, the commission stated that not only the option-time rule but all the network regulations not now in effect would be held in abeyance until after decision on the point to be argued at the hearing September 12th, and that even after rendering of such decision, time would be allowed for compliance by the networks with respect to contractual relations and the disposition of properties in accordance with the orders originally promulgated May 2nd.

John T. Cahill and John J. Burns, counsel for the National Broadcasting Company and Columbia Broadcasting System, respectively, appeared before the commission on September 12th to argue against putting the network regulations in effect and asked the commission to join with the networks in asking Congress for a "comprehensive radio law." The arguments were in connection with the petition by the Mutual Broadcasting System for some modification of the commission's regulations. Mutual, while generally supporting the regulations, asked particularly for a modification of one year. Burns described the regulations as "arbitrary and unreasonable" and reiterated Columbia's position that Congress had not given the commission power to regulate network-station regulations.

Financial News and Comment

By OWEN ELY

The Cost of One Kilowatt Capacity

DESPITE the great amount of technical data compiled on the electric power and light industry, reliable and accurate figures on the average cost of constructing one kilowatt of capacity seem lacking, and none of the government agencies which compile statistics on the industry—Census Bureau, FPC, SEC, TVA, etc.—has attempted to compile such figures on a nation-wide basis, so far as the writer is aware. The subject has also been somewhat neglected by private agencies such as the Edison Electric Institute, *Electrical World, Power,* etc. An article by Professor H. L. Solberg in *Power* for June, 1939, made an interesting approach to the subject.

A rather complete "Steam Station Cost Survey" was published in the *Electrical World* December 2, 1939, giving detailed engineering cost data for 56 relatively new plants. The material was presented in tabular and analytical form but did not attempt to work out any overall average cost per kilowatt for the construction of generating plants. (For 29 plants, the average was around $111.) The Edison Electric Institute compiles annual construction costs for the entire electrical industry, and the aggregate United States capacity at each year-end, but does not relate these figures to obtain an average unit cost.

In connection with the defense program, *Power* recently compiled a variety of interesting charts and tables (available in pamphlet form) but these did not include cost studies.

The old rule-of-thumb figure for constructing a kilowatt of capacity was $100 for a steam-generating plant, and $200 for a hydro plant. While the estimates of total cost for the huge 1943-46 program of the FPC have not been worked out in detail, the indicated figures for kilowatt cost are as follows, for generators and stations:

Steam	$73—$98
Hydro (over-all)	212—226
Hydro (allocated)*	155—169
Average (steam and allocated hydro)	97—118

*"More than one-third will be allocable to flood control, navigation, and other benefits." The net figure excludes one-third of the cost.

THESE figures, in the writer's opinion, seem too low if the present rise in costs is given full consideration. There is a lag of from one to two years in costs due to advance contracts; but current trends should, it is estimated, be reflected in an increase of at least 20 per cent in 1943 costs as compared with the 1941 level. Accordingly the FPC estimates for 1943-46 costs would, on this basis, be comparable with a 1941 set of costs about as follows:

Steam	$61—$82
Hydro (over-all)	177—188
Hydro (allocated)	129—141
Average	81— 99

The total 1941 construction budget for generating plants (excluding Federal hydro projects) is $250,700,000, of which $242,300,000 is for steam and $8,400,000 for hydro. The estimated increase in capacity during the year will probably be around 2,500,000 kilowatts. The increase in hydro capacity is not available, but allowing an arbitrary unit cost of $200 would indicate only 42,000 kilowatts. On this basis the cost of constructing the steam plants alone would

figure out around $70, which would not be out of line with the revised FPC cost figure of $61-$82, above. However, as mentioned above, there is always a lag of about two years, and various parts of the plant and generators may be paid for one to three years before the plant actually begins producing kilowatts. Hence the budget cost for any one year, measured against the increased capacity of the same year, is necessarily inaccurate. A 3-year moving average would seem more appropriate and on this basis we arrive at the following results:

	Steam	*Hydro*
1923	$171	$255
1924	208	223
1925	143	175
1926	122	147
1927	109	130
1928	116	108
1929	109	233
1930	97	235
1931	108	254
1932	107	142
1933	105	(a)
1934	*	(a)
1935	90**	(a)
1936	*	(a)
1937	181**	(a)
1938	186**	(a)
1939	150	(a)
1940	115	(a)
1941	109	(a)

*Capacity decreased.
**Two-year average.
(a) Increase in hydro capacity (other than government) was small and cost figures too erratic to use.

THE relatively low and steady cost, averaging a little over $100 during the period 1927-35, represented declining costs and a steady increase in station efficiency. During the early 1930's the installation of topping plants in some 50-75 large central station plants (new generating units superposed over the original generators and using exhaust steam) helped to account for the low cost per kilowatt. The 1937-39 figures apparently marked the end of this particular economy and a return to the higher-cost basis, but with the larger program now under way the cost declined to $109 for 1941. From these figures the FPC estimates seem too low.

Of course, plant cost depends very largely on whether any allowance is made for future expansion; in New York city the East river plant cost more than twice as much per kilowatt as the Hudson avenue plant, which was more simply constructed.

The 3-year average figures are not strictly accurate, of course, because construction costs are not adjusted for retirements, while the capacity figures are. However, there is very little retirement of generating plants, most of them being placed in the "stand-by" class after they are taken out of active service. Changes in capacity ratings of existing plants would be another source of error. Other potential difficulties may occur to technicians. However, the figures appear to furnish the only historical over-all cost averages now obtainable.

As to hydro costs, the figures for private construction in recent years (when construction has been at low ebb) are too erratic to be of value; the average for the decade 1923-32 was $190, conforming pretty closely to the $200 rule-of-thumb figure used in the industry. Costs on the huge Federal projects are difficult to arrive at because of the tortuous records of government expenditures. Apparently TVA appropriations total some $565,000,000 (which does not include an estimated $90,000,000 for interest during construction, etc., or the 1919 cost of Muscle Shoals, idle for many years). The total completed and projected capacity will probably be about 2,728,000 kilowatts, making an average original cost of about $208 per kilowatt (less whatever amount is assigned to flood control, etc.). The plans for the $300,000,000 St. Lawrence development call for about 2,000,000 kilowatts, which makes the average cost about $150 (less the amount allocated to navigation). Based on these figures the FPC estimate for over-all hydro generating costs, about $219, seems adequate, although it does not make any generous allowance for increases in cost.

It seems doubtful whether we will ever have very accurate figures for average

kilowatt construction costs on the present huge Federal hydro projects, because of the New Deal policy of allocating such a large proportion to nonelectrical uses (navigation, irrigation, flood control, etc.). According to approximate estimates by the Edison Institute only 22 per cent of the cost of Bonneville is being assigned to power, 48 per cent of TVA, etc. Moreover, government construction figures never include interest during construction, it is understood, although private plants consider this a necessary accounting practice.

WITH regard to transmission, distribution, and miscellaneous construction costs for the electric power industry, these averaged about twice as large as generating costs in the decade ending 1930, while the 1940 decade showed more than three times as much spent on other-than-generating costs, as follows:

	1921-30	*1931-40*	*1941 Budget*
Generating ...	33%	24%	34%
Transmission .	16	12	12
Distribution* .	40	56	50
Miscellaneous .	11	8	4
Total	100%	100%	100%

*Includes substations.

In 1941 total costs are again running about three times the amount of the generating costs, as in the 1921-30 decade. This seems partly due to the fact that topping plant economies are no longer available, while distribution costs to defense plants are much smaller than to residential districts. In the analysis of the FPC power expansion program for 1943-46 (FORTNIGHTLY, August 28th, page 295) it was stated, "in the past decade the cost of steam and hydro stations averaged only about one-third of the total cost of construction"; this should have referred to the 1921-30 decade. A multiplier of three (which corresponds to the 1941 budget as well as the 1921-30 figure) was applied to the maximum FPC generating and plant costs per annum, to arrive at a total of $8,000,000,000 for the six years 1941-6.

It is possible that the multiplier of three is somewhat too large, for in many cases where new capacity is built for direct hook-up to one or two large defense plants or Army camps, transmission-distribution costs may be so greatly reduced that a multiplier of two or less would suffice; but where work is "farmed out" to small plants, the ratio will be higher. Also, some growth of residential and commercial lighting will continue, possibly at a rate above normal unless consumer spending is definitely checked and construction priorities rigidly applied. Domestic electric equipment such as refrigerators, washing machines, and radios were sold in record-breaking amounts in the first half of 1941, but tightening of instalment terms and manufacturing difficulties may greatly reduce future sales. Nevertheless, with increased retail activities and general prosperity, the use of electricity for nondefense consumption may be expected to show at least a normal rate of increase during 1941-46. While a multiplier of three (to apply against generating construction costs) would be much too high for large defense hook-ups, an over-all multiplier of two and a half would seem to be a fair compromise. This would mean a reduction of one-sixth in our previous cost estimate. On the other hand, the FPC steam plant construction cost estimate per kilowatt seems too small, based on the historical analysis above, and due to the difficulties of checking the present inflationary price trend. These latter considerations would seem to offset the reduction in cost total resulting from a lower multiplier.

What Price Operating Company Stocks?

EXECUTIVES of some large holding companies are currently wrestling with the problem of valuing the common stocks of their operating companies, while others will encounter the problem in the next year or so, as they attempt to work out exchanges of such stocks for the securities of the top companies, or public offerings. Any exchange offer,

while it may not mention a specific price for the operating company stock, necessarily involves a market value based on that of the holding company security. To make such exchange offers successful the terms must be generous or at least "right," making due allowance for investor inertia, the inevitable tendency to "hold out" for higher values, and the fact that the new security is unseasoned and its record unfamiliar to many security holders of the parent company. In other words, the new stock must be "sold" to the investing public.

The experience of Standard Gas and Electric with San Diego Gas & Electric is a case in point. The stock was first offered by Standard to its own debenture holders in July, 1940, on an exchange basis of 58 new shares (after a 10-for-1 split-up) for a $1,000 bond. At that time the bonds were selling around 70, making the corresponding value of San Diego a little over $12 a share. For the previous calendar year, the stock had earned about 89 cents a share, on which basis the new stock was offered at 13.5 times 1939 earnings—with the expectation, however, that such earnings would be increased by savings resulting from a current refunding program. Such a basis evidently did not prove sufficiently attractive, despite the fact that earnings increased to $1.73 in 1940 (the gain being partially due to a reduction in maintenance, and nonrecurring income tax savings). It is true that the stock advanced to around 15 (about 8.7 times the new earnings) but due to arbitrage operations the bonds kept pace with the stock, going to around 90. Bondholders, hoping for a further advance to par, thus had little immediate incentive to make the exchange. Nearly a year after the original plan, with only about 41 per cent of the stock exchanged, the remaining 590,527 shares were offered to the public at $14.375 (Standard Gas receiving $13.427) through a syndicate headed by Blyth & Company. The current price of the stock over-the-counter is about 14.

This experience seems to indicate that, in an exchange offer involving holding company bonds or preferred selling at a substantial discount, initial aid by a banking syndicate, either for underwriting or for arbitraging, might increase the success of the offering; or an aggressive campaign might be waged with the help of organizations which specialize in soliciting proxies, reorganization deposits, etc.

How should the management decide on the proper earnings ratio by which to price the operating company stock? The only possible procedure is to compare the characteristics of the new offering with those of operating company stocks already traded in. Excluding small issues of companies not in the electric business, the list published in this department (June 5th issue, page 744) comprised the more important issues. The list at that time was evenly divided between those selling at ten times earnings or under, and those selling at higher ratios, with a general average of ten. Market conditions have not changed much in the interim and current ratios would probably average about the same. While the range of the list was from four to seventeen times earnings, for practical purposes stocks selling in the range of eight to thirteen times earnings should afford the best basis for comparison.

In studying these variations in market ratings, one point which stands out is that a low ratio of debt to total capital usually entitles a stock to sell at ten times earnings or better. In the table referred to, stocks with a price-earnings ratio of eight had an average debt ratio of 55 per cent, and the common stock equity was only 23 per cent; those selling at nine times earnings averaged 44 per cent debt, 35 per cent common; those at ten times earnings had ratios of 35 and 38 per cent, respectively. Above the level of ten times earnings, there were greater variations and other factors seemed to play a rôle, but *none of these issues had a debt ratio of over 48.* (The SEC is said to favor a minimum of 50 per cent.) Duke Power and Fall River Electric, selling at thirteen times earnings, had low debt ratios.

The relation between low-debt and high-price earnings ratio is quite logical. During the hectic 1920's the reverse was the case—capital leverage was at a big premium, because of the hopes that earnings would continue indefinitely on the upgrade. The less conservative the ratio, the more the stock was sought after, and some holding company issues such as Cities Service sold at fantastic earnings ratios. But now the shoe is on the other foot; earnings gains are modest and irregular, and war-time conditions, combined with SEC rules, threaten a declining trend. The public now wants safety rather than leverage, and is willing to pay a moderate premium for a conservative capital set-up; this trend is also favored by the SEC policy of seeking lower debt ratios, since companies with more than 50 per cent debt might sooner or later face some punitive action, where the SEC has power to impose it.

Of course it remains true that other factors enter the picture in evaluating common stocks: Depreciation and maintenance, rates, potential government competition, etc., should not be overlooked; but the evidence seems to indicate that capital set-up is the major consideration so far as the public is concerned.

Other than San Diego Gas & Electric, only a few operating company common stocks have been offered to the public in recent years. The stock of Indianapolis Power & Light, an Ogden property, was distributed April 3, 1940, by a Lehman syndicate at 24, representing a price-earnings ratio of about 11. The capital structure was about 55 per cent debt, 22 per cent preferred, and 23 per cent common.

The stock now sells on the exchange at around 19 despite the fact that earnings for the year ended June 30th were $3.22, making a price-earnings ratio around 6. A substantial part of these current earnings represent nonrecurring savings in income taxes due to refunding credits. It appears likely that after adjusting for this factor the earnings ratio would be about 7 or 8. It is not clear, however, why the stock has proved so unpopular.

A smaller Ogden subsidiary, Newport Electric, was sold by Stone & Webster in May, 1939, at 29½, representing about seventeen times the current earnings. The stock was probably placed locally to a large extent. Earnings in 1940 increased to $2.53, and the stock is around 26, so that the earnings ratio has dropped to around 10. The capital set-up is 28 per cent debt, 28 per cent preferred, and 44 per cent common; but the depreciation and maintenance ratio last year totaled only 17.1 per cent (which is somewhat low), and the residential rate appears fairly high.

Washington Gas Light was offered at 29½ (in two blocks—August, 1939, and January, 1940) by a First Boston syndicate. The original price-earnings ratio was under 12, and the stock is now selling on the exchange at only about 8½ times earnings. The company should be favored by Washington growth, but allowance for depreciation and maintenance is quite low. The company's capital is 45 per cent debt, 16 per cent preferred, and 39 per cent common.

Consolidated Electric and Gas Company

Consolidated Electric and Gas, $108,000,000 holding company (included in our current series on secondary members of the holding company "hierarchy"), offers the interesting contrast of a basically sound system structure, and Stone & Webster management, with a weak holding company set-up. The properties are widely scattered and top capitalization obviously in need of scaling down, so that the system faces formal "disintegration" proceedings along with the rest of the holding companies. Students of the Wall Street potpourri of obscure issues may be interested in a brief analysis.

Technically, the top system company is Central Public Utility Corporation, but this is a mere shell of a concern with cash income of $11,494 in 1940. The com-

pany's Income 5½s of 1952, issued in 1932 as part of an ineffective reorganization-merger of several holding companies, have never paid any interest and are currently quoted around 1½. The company's most valuable asset is its holding of over 68,000 shares of Consolidated Electric preferred. (It also owns all the common and Class A stocks, but these are virtually worthless.)

The subholding company, "Con Elec" as it is familiarly termed, has outstanding in the system capitalization about $21,000,000 collateral trust bonds, $23,000,000 assumed obligations, and some $32,000,000 subsidiary bonds; a small amount of subsidiary preferred, about 183,000 shares of $6 preferred, and the second preferred and common. The largest of the three issues of collateral 6s, the A bonds due 1962, are currently quoted over-the-counter around 69 to yield nearly 9 per cent current return; the first preferred stock, which carries about $54 back dividends, is quoted over-the-counter around 11½.

The three series of collateral 6s are jointly secured by pledge of certain system securities, including the common stock of Atlanta Gas, one of the larger operating companies. Bond interest appears fairly secure, since consolidated income covers fixed charges 1.6 times currently, while the parent company statement showed coverage about 1.2 times.

In the twelve months to June 30th, $8.86 per share was earned on the first preferred stock (system basis) and $3.33 on a parent company basis, these earnings showing a substantial gain over the previous year. Currently the stock is selling for about one and one-third times the consolidated share earnings figure, and less than four times the parent company cash income per share. Depreciation and maintenance currently are 16.5 per cent of revenues (less purchased power and gas).

Despite the substantial share earnings in 1940, sinking-fund and construction requirements (in excess of depreciation charges) prevented payment of dividends on the preferred stock, and this condition will probably continue during 1941. Sinking-fund requirements this year approximate $900,000 and the construction program will exceed last year's $3,771,000.

System properties are widely scattered throughout the eastern part of the United States, Canada, the Philippine islands, Puerto Rico, Haiti, Santo Domingo, Canary islands, and the island of Mallorca.

Nearly all domestic subsidiaries are directly and fully controlled by Consolidated Electric, while most of the foreign companies are controlled through Islands Gas & Electric Company. Comparatively little capital simplification is, therefore, required except in the top holding companies and in Islands Gas. The Spanish subsidiaries operate under great difficulties and (due also to exchange difficulties) do not contribute to system income. No great difficulty has as yet been encountered in obtaining cash receipts from other Consolidated foreign subsidiaries.

The parent company's total income of about $3,500,000 in 1940 consisted of $1,472,000 interest and $2,027,000 dividends. Both the interest and dividend income from subsidiaries were quite well diversified. Dividend income, for example, was obtained from at least twenty-five operating companies; the two largest, Central Illinois Electric & Gas and Atlanta Gas Light, contributed about $500,000 apiece, and the balance of about $800,000 was fairly well spread over the list. In 1940 Central Illinois Electric & Gas reported net income of $1,000,709, of which only $538,254 was paid in common dividends to the parent company (there is no preferred stock). Apparently sinking funds on the bonds and debentures issued in 1939, plus construction requirements, prevented payment of larger dividends.

"Con Elec" securities seem to have satisfactory liquidating values in relation to current prices, provided the management can work out a program satisfactory to the SEC.

What Others Think

Latin American Regulation and Treatment of Utilities

THE people of Latin America are becoming utility conscious. This awakening is due in part to the example of high-grade utility development in the United States. Again, the same underlying forces of progress which have caused rapid utility development in the United States are making themselves felt south of the border.

In a paper presented some weeks ago in Havana, Cuba, before the Inter-American Bar Association, Edwin D. Ford, Jr., well-known international attorney of New York, outlined some recent trends in the regulation of public utilities in Latin America and their effect on the ability of public utility companies to meet demands for service. After more than eleven years of experience in Latin American and domestic utility regulation, Mr. Ford said he was convinced that, in the long run, the interest of the consumer and the interest of the utility investor are both served best by the application of the same principles of regulation. If the consumer is treated unfairly, the investor suffers from resulting ill will, which is usually translated into retaliatory legislation and direct popular action. Conversely, if the investor is denied a fair return and proper protection for his capital, the public will eventually suffer from an inadequate and insufficient service.

In view of the relatively greater amount of capital required for utility enterprise, as compared with other industrial undertakings, the author outlined the following conditions necessary to insure a proper flow of capital:

(a) There must be reasonable guaranty of security for the investment against expropriation without previous cash payment of a fair price. This should be in the form of appropriate concession contracts, supplemented by reasonable regulatory laws backed by a record of fair dealing and law enforcement on the part of the public authorities and courts.

(b) There must be assurance that the investors will not be required to dispose of their property at "junk value" at the end of the period granted them for doing business; or else the rate of return must be higher, to the extent necessary to protect them against this additional risk.

(c) There must be reasonable guaranty of an opportunity to earn a fair return on the fair value of the investment during the time it is employed in the business. By fair return is meant a rate commensurate with what investments in the same locality, involving similar risks, earn generally at the time, and from time to time, in the money markets where the capital must be obtained. In the case of Latin America, this usually means the world money markets.

(d) There must be reasonable protection from unfair and uneconomic competition; or else the rate of return must be higher to the extent necessary to offset this additional risk.

IN Latin America the concession contract has been, until recently, the only method of utility regulation and is still the basis of regulation in every Latin American country. The concession contract, Mr. Ford explained, stems from the historical proprietary interest of the state in natural resources and public highways. This was seized upon as a "pretext for regulation." The real basis for requiring a license, namely, public interest, was not at first recognized in Latin America. The result is that, on the whole, regulation south of the border has advanced little beyond this fairly primitive proprietary basis.

Nearly all concession contracts are for a fixed period of years. They contain all provisions which, at the time of execution, are considered necessary for regulating the particular utility business involved. Thus, maximum rates (with no

provision for subsequent adjustment), recapture by the government at the end of the operating term (often without compensation), tax liability, territorial responsibility, and service capacity are among the common factors included in the concession contract.

The chief advantages of the concession contract are (1) protection against confiscation or other unfair treatment (notwithstanding certain recent Latin American experience); (2) removal of the utility business from political disturbances (except during the later years of the concession); (3) stabilizing the tax liability; (4) simplicity in administration.

While these advantages may seem, superficially, to be all in the interest of the utility, Mr. Ford reminds us of his guiding principle that it is the utility customer who gains in the long run from whatever security and stability are gained for utility operations by the concession contract. When supplemented by a properly drawn and administered regulatory law, he thinks it is the best method yet devised for the regulation of utilities under conditions as they exist in Latin America.

BUT there are defects. The author lists them as follows:

1. The contract is essentially a gamble in which either the investor or the public will lose, according to the trend of economic conditions during the term of the contract. Operations under rigid rates and fluctuating foreign exchange (Latin American courts, like our own Supreme Court, have subordinated "gold clauses" to local public interest) defy even the most expert attempts at economic prognostication.

2. The necessity for amortizing the investment (in anticipation of governmental recapture or ouster) unnecessarily increases the cost of service to the public without any corresponding benefit. Again, the need for additional investment in rapidly growing Latin communities (as most of them are) complicates the amortization. This is because the subsequent investment has to be amortized at a higher rate than the original investment in order to retire the whole amount within the fixed term of the contract. This causes bad relations, misunderstanding, and makes it difficult to arrive at a fair, new arrangement to meet increased demands for service.

3. The rigidity of the contract relationship prevents elastic regulation which might prevent uneconomic competition without granting unpopular exclusive concessions (which in most Latin American countries are not only unconstitutional but politically impossible). The result has been unfortunate experiences with uneconomic duplication of facilities which is especially wasteful when promoted under the sponsorship of the government itself.

COMMENTING on the advantage of the concession contract, Mr. Ford referred to Latin American attempts at regulation "by promoting antisocial and uneconomic competition" in the form of coöperative electric enterprises. These have sprung up in many parts of Argentina, aided by special legislation and, in some cases, by government subsidy. The unsoundness of the policy was condemned by the well-known Argentine writer, Dr. Germinal Rodriguez, in his book *"La Coöperacion en los Servicios Publicos y la Politica de Partidos,"* Buenos Aires, 1936.

Failure in many Latin American countries to provide remedies against the foregoing disadvantages of the concession contract as the sole means of regulation of utilities, in the opinion of Mr. Ford, prevents privately owned utilities in those countries from obtaining new capital required to meet growing demands for service. These disadvantages have been largely eliminated in the United States through elastic and continuous public regulation. But similar attempts in some parts of Latin America have not been equally successful, for reasons described by the author.

The first departure from the concession contract as the sole means of regulation was an attempt to fix rates by direct legislative action. Thus, in Cuba in 1933, a presidential decree, issued under emergency powers, reduced gas and electric rates throughout the Republic. This was later modified by zoning rates so that in some towns, served by more than one company, rates are different on one side of the street than on the other. The weakness of this direct legislative action is its arbitrary character and lack of experience and sound economic foundation.

We had similar unfortunate experience in the United States several decades ago with certain arbitrary 2-cents-a-mile railroad rate statutes and the ill-fated dollar-a-thousand gas rate law in New York state.

MR. Ford apparently feels that the most promising development in Latin American regulation is the Indeterminate Concession Contract (which incorporates the well-known indeterminate permit idea), establishing basic principles of regulation with a permanent nonpolitical commission to apply them. Of course, "permanent nonpolitical commissions," as the Minister of Agriculture in Brazil once observed, must be established with due regard for the expense and the extent of utility operations to be regulated. This official was of the opinion that the Brazilian situation scarcely needed a set-up as elaborate as our Federal Power Commission.

However, using the concession contract as a basis which has already found such wide and ready acceptance in Latin America as to be useful in any regulatory set-up, Mr. Ford summarizes provisions which he feels are adaptable to Latin American usage as follows:

1. That the utility will be permitted to continue in business as long as it complies with the laws of the country which are applicable in it or until the fair value of its investment (determined in accordance with principles established in the concession) has been returned to it.

2. That the utility will be permitted to earn a fair rate of return on the fair value of its investment. This rate of return may vary from time to time, and therefore is one of the things which should be determined in accordance with rules established in the concession contract.

3. That the utility and the public will be protected against uneconomic competition.

4. That there will be established and maintained a permanent nonpolitical commission to administer the principles of regulation laid down, or incorporated by reference from existing legislation in the concession contract.

The contract might also contain other provisions fixing the basis upon, or limitations within, which the regulatory commission might control other matters affecting the utility's operation. These might include tax liability, service obligation, rate change procedure, etc.

THE author then proceeds to list regulatory laws, including those establishing full-time commissions, which have been enacted in the various Latin American countries as follows: Colombia, 1928; revised in 1936, 1937, 1938, 1939, and 1940. Chile, 1931; revised in 1934 and 1935. Brazil, 1934; revised 1935, 1939, and 1940. Argentine, Province of Buenos Aires, 1939. Costa Rica, 1910; revised 1928, 1929, and 1930. Mexico, 1934; revised 1939 and 1940. Cuba, 1934; revised 1936.

Of these laws the ones granting the broadest powers to regulatory agencies and most nearly approximating the regulatory commissions in the United States are those of Brazil and Mexico.

Despite this impressive list of Latin American statutes, Mr. Ford tells us that commission regulation in Latin America has thus far failed to achieve the results obtained in the United States. Adverse economic conditions are partly to blame, but the author gives additional reasons, as follows:

1. Transition from concession contracts to elastic regulation has been attempted in violation of contractual rates, causing suspicion, misunderstanding, and lack of confidence. The offering of adjustable indeterminate permits would usually be sufficient to induce the utilities voluntarily to sur-

The Oregonian

SACRIFICE

render their concession contracts.

2. Establishment of commission regulation has been used as a vehicle for placing additional burdens on utilities without any compensating benefits. Burdens include tax increases, rate cuts, and service obligations. These have not generally been accompanied by any guaranties or protection for investment and earnings.

3. The rights of utilities under the new laws have been ignored by regulatory inaction or obstruction.

4. The scarcity of technical staff men, competent to administer regulation.

5. Improper valuation of utility properties for rate making or recapture.

Mr. Ford, in discussing the valuation issue, shows sympathy for the "fair value" rule, as distinguished from the "original cost" or its more fashionable relation, "prudent investment." However, aside from the determination of this issue in the United States, he tells us that "the adoption of an unsound theory of valuation in those countries is much more serious than in the United States."

In fact, the fluctuation in value of monetary exchange in the history of Latin American countries makes the application of the original cost theory in those countries almost absurd. There are many instances where the present-day cost of installing new units of similar capacity to those now in operation may be several times as great as the original cost of their counterparts. This disparity is emphasized where foreign capital, as well as foreign material and equipment, is required; so that capital can be obtained through interest-bearing obligations only by contracting to pay interest in foreign currency.

Thus, when the native currency becomes depreciated in terms of foreign currency, the interest expense of the utility is increased, while the utility's earnings under existing rates may be decreased. It is partly for this reason that Latin American utilities have been compelled through legal or extralegal methods to accept rates insufficient to cover normally prudent depreciation requirements.

Mr. Ford finds two bright spots in recent Latin American regulatory experience. The first is the Mexican law for the electric industry, adopted in February, 1939, with regulations effective August, 1940. This was accompanied by a complete system of regulation of utilities in Mexico. The set-up closely approximates commission regulation in the United States. Acting under the Secretary of National Economy, a department of electric control, consisting of five members, administers the law. The law recognizes fair value as the rate base and the right of utilities to a fair return similar to other investments involving similar risks. Provision is made for periodic rate adjustment.

MR. Ford is not so enthusiastic about two features of the Mexican law: (1) Amortization of the investment within fifty years with a reversion of the property to the state, subject to a rather vague obligation to make compensation for any unamortized balance. (2) The second weakness, he finds, is an unnecessarily stringent provision for cancellation of concessions. Upon cancellation, all property reverts to the government without compensation. This is naturally discouraging to the investor, especially where a violation of some minor provision of the law is ground for forfeiture. The author is hopeful that these provisions will be found impractical and subsequently eliminated.

Mr. Ford looks with favor also on the regulatory law of Colombia, which provides that basic principles of regulation (to be administered by the Department of Public Services Companies) should be included in all concession contracts of public utilities. This arrangement provides for continuous supervision of rates, expenses, taxes, depreciation, fair return, and an annual amount of amortization. Incidentally, the amortization provision is more elastic in Colombia than in Mexico, since no definite period is specified at the end of which the property must be turned over to the government. Thus, companies need not turn over their properties unless they are purchased or expropriated and full compensation paid. Mr. Ford says of the Colombia law:

> This concession contract represents a serious and, I hope, a successful attempt to establish flexible rules and principles of regulation in the concession contract itself, thus reducing to a minimum the work and expense of the regulatory authorities. This system is, as I have already stated, admirably suited to areas where the utility industry is not large enough to justify a highly paid staff of engineers, lawyers, accountants, and other experts such as is necessary for con-

tinuous and complete regulation by commission.

In short, he tells us that examples of Colombia and Mexico show how any country can readily devise a system of regulation based on the concession contract, but supplemented by a commission or board to administer such contract with such powers as may be found best suited to that country's particular needs. The important thing is that whatever the specific methods used, they must be based upon equitable economic and financial principles guaranteeing fair treatment to investor and consumer alike. Mr. Ford concluded:

> . . . It is only through wealth created within the country through the efforts of its citizens working together with foreign capital that ultimately the investment in the industrial and utility enterprises which may be developed therein may be acquired by the local citizens or government, and it is only through fair treatment of these same enterprises that the local citizens can be induced to invest their savings therein; rather than send the same abroad as they now too often do.
>
> The example of the United States in this respect is most illuminating. The United States today is a creditor nation, but many people forget that in the early days of its history practically all of the capital invested in its railroads and other important industrial enterprises came from Europe. It was not so many years ago that the people of the United States obtained the ownership of most of those investments through the gradual purchase of the same in the open markets with capital which never would have existed had it not been for the help of those same foreign investments. It was only in this manner that the present independent financial and industrial status of the United States could have been realized. There seems to be no reason why the countries of Latin America may not do the same.

—F. X. W.

Trend of Insurance Investment in Utility Securities

Last May, during the transactions of the Actuarial Society of America, a paper was presented by Fergus J. McDiarmid of the Lincoln National Life Insurance Company, and sometime contributor to Public Utilities Fortnightly. Mr. McDiarmid's paper covered, among other things, the trend in life insurance company investment, including investment in utility securities. The general purport of the McDiarmid paper could be summarized in the following five points:

1. The amount of private long-term debt outstanding in the United States, which has provided the main medium for life insurance investment in the past, has contracted sharply during the past decade. Also a considerable part of this debt now in existence has deteriorated in quality to a point where it is no longer suitable for the investment of life insurance funds.
2. During this decade life insurance companies have increased their investment in this debt very largely by taking over at lower rates of interest a large volume of debt formerly held by others. This process has obvious limitations in so far as the future solution of the life insurance investment problem is concerned.
3. While the process of sharp contraction in outstanding private long-term debt has now come to an end, any marked expansion in the volume of this debt seems rather unlikely.
4. To increase the investment of life insurance companies in private industry may call for additional investment in stocks.
5. The rate of interest to be earned on the future increment in life company funds is likely to approximate the rate obtainable from Federal government bonds.

The author found that, notwithstanding a drop in the long-term private debt during the last decade, life company holdings in utility bonds have increased sharply in the same period. Basing his figures on data of the National Industrial Conference Board, Mr. McDiarmid's paper contained tables showing the respective trends in private long-term debt and life insurance company investment (see next page).

This ratio does not tell the whole story. There are certain categories of

ESTIMATED PRIVATE LONG-TERM DEBT OF U. S.
(Billions of dollars)

	Grand Total	Mortgages Total	Mortgages Nonfarm	Mortgages Farm	Railroad	Public Utility	Industrial
1912	31.3	10.8	7.0	3.8	10.7	5.3	4.5
1920	48.0	25.6	17.2	8.4	11.0	7.2	4.2
1925	67.6	40.4	30.5	9.9	12.2	9.5	5.5
1930	88.9	55.4	45.7	9.6	12.8	12.6	8.1
1935	75.1	42.8	35.0	7.8	12.3	13.1	6.9
1938	73.3	41.3	34.1	7.2	12.0	12.9	7.1
1939	73.0	..	..	..	..	..	..

INVESTMENT IN PRIVATE LONG-TERM DEBT OF 49 LIFE INSURANCE COMPANIES REPORTING TO THE LIFE PRESIDENTS ASSOCIATION
(Billions of dollars)

	Grand Total	Mortgages Total	Mortgages Nonfarm	Mortgages Farm	Railroad	Public Utility	Industrial
1911	2.81	1.30	.81	.48	1.31	.15	.05
1920	4.20	2.24	1.11	1.13	1.71	.20	.06
1925	7.30	4.37	2.49	1.89	2.22	.61	.11
1930	11.72	6.99	5.11	1.88	2.86	1.55	.32
1935	10.26	4.95	3.96	.99	2.79	1.99	.53
1938	12.16	4.94	4.14	.80	2.89	3.10	1.23
1940	13.59	5.34	4.54	.80	2.95	3.89	1.41

utility debt, says Mr. McDiarmid, which are no longer considered high-grade investment fields. These include most electric railway and telegraph debt and a fair proportion of the debt of artificial gas companies. The debt of some holding companies might also be included in this category.

Another one of Mr. McDiarmid's tabulations shows the following distribution of long-term utility debt according to the type of utility industry:

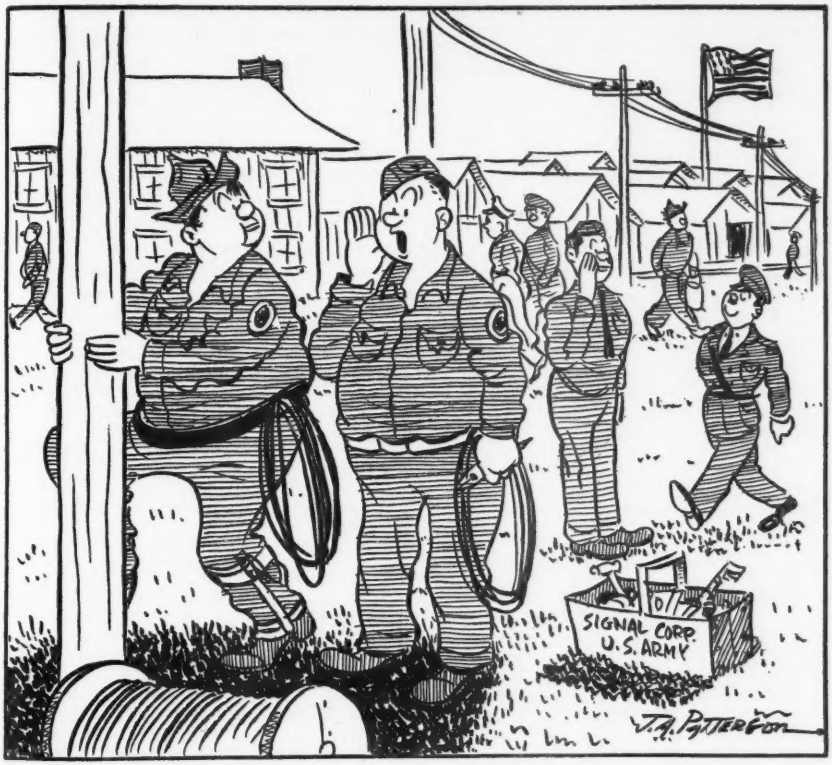
DISTRIBUTION OF ESTIMATED LONG-TERM PUBLIC UTILITY DEBT 1938

	Amount (millions $)
Electric railways	2,302
Electric light and power	6,131
Telephone	1,163
Telegraph	109
Gas, manufactured and natural	1,054
Water	482
Miscellaneous	1,634
	12,875

Discussing insurance company investment in utilities, Mr. McDiarmid states:

> Life company holdings of this utility debt at the present time are concentrated heavily in that of the electric and telephone industries and a large part of the limited amount of water debt is also probably thus held. The exact proportions of this debt held by life insurance companies is not available, but certain subsidiary information is at hand. Of $5,573,402,000 of electric utility bond issues in the years 1935 to 1940, $939,477,000 went by direct sale to financial institutions, meaning very largely life insurance companies. An analysis of the ownership at the end of 1939, of 105 bond issues of electric, gas, and telephone companies sold publicly during the preceding five years and totaling $3,469,000,000, revealed that $1,896,000,000 or 54½ per cent of the total was held by financial institutions in blocks of $50,000 or more of each issue. Of these institutional holdings the vast majority were with life insurance companies. Of one $130,000,000 issue sold publicly over half was held by 15 large life insurance companies, and 56 per cent of an $80,000,000 issue was held by 12 such companies. If at this juncture one might be permitted to slip for a moment from the straight and narrow actuarial path and inject an impression among the demonstrations, it would be to hazard a guess that something like 50 per cent of the combined long-term debt of electric, telephone, and water operating companies is now held by life insurance companies.

MR. McDiarmid finds that private debt, other than real estate mortgage, is quite heavily concentrated on two industries—the railroads and utilities.



"REMEMBER THAT RUNT OF A GRUNT WE USED TO RIDE WHEN WE WORKED FOR THE PHONE COMPANY? WELL, DON'T LOOK NOW, BUT HE IS OUR NEW LIEUTENANT"

He gives a list of 25 other industries in which the very highest proportion of funded debt shown is only 25 per cent for meat packing. The average of funded debt is only 11 per cent for the total capitalization of all of these companies. Less than one-third of them had any funded debt at all.

As to the railroad debt, the author declared that there is very little chance that this industry would be permitted to incur more funded debt. On the contrary, it will probably reduce its debt through reorganizations. Concerning the future trend in utility indebtedness, however, Mr. McDiarmid stated:

The situation of the utilities is not so easily disposed of. Some important divisions of this industry, including the electric, telephone, and natural gas divisions, are still expanding at a rather rapid rate in a purely physical sense. Most important of these from the point of view of life insurance investment is the electrical industry. In spite of the growth in this industry during the last few years its funded debt has increased not a great deal. There are a number of reasons for believing that this situation will continue to prevail in the near and medium term future.

1. The bonded debts of a large number of electric companies are now quite heavy as compared to the value of their plants carried on a properly depreciated original cost basis, which is now largely accepted by regulatory authorities as the proper basis of valuation.

2. The Securities and Exchange Commission is putting pressure on utilities to reduce

their funded debts through sinking funds, serial debentures, and equity financing.

3. Increased depreciation allowances provide a large and increasing part of new capital requirements.

It will probably be a very healthy thing if the funded debt of the electrical industry does increase very little in future, since the net earnings of this industry have in recent years shown a decided tendency to level off.

CONCERNING the telephone industry the author finds that there has been a moderate recent tendency toward bond selling to take advantage of low interest rates. However, in view of the past record of the industry, he feels that this trend is likely to be held within strict limitations. Concerning the natural gas industry, the strong sinking funds usually attaching to natural gas bonds will tend to hold down the total outstanding funded debt, notwithstanding a rapid prospective expansion. Artificial gas investment is on the decline. The debt of private water companies is also on the decline through the purchase of such properties by municipalities. For obvious reasons, no increase in electric railway debt can be expected.

In short, viewing the utility industry as a whole, Mr. McDiarmid sees no opportunity for a substantially expanding field for life insurance investment in the future. If life insurance holdings of utility bonds are to increase, they will likely do so by taking from existing holders an increasing part of the sounder utility debt already outstanding. This process has patent limitations, because of the large proportion of stronger utility bonds already owned by life insurance companies. Then, too, parties other than life insurance companies who have accepted the low yields offered on recent utility bonds are probably prepared to hold on to their bonds.

F. X. W.

Notes on Recent Publications

ELECTRIC POWER STATISTICS. Published by Federal Power Commission, Washington, D. C. Price $2, for binder and all reports for one year.

Combines six annual and twenty-four monthly reports in one heavy cloth loose-leaf binder, page size 8 x 10½ inches, with tabbed separators for each of its nine sections. Data kept current monthly for ready reference.

THE GUNTERSVILLE PROJECT. Technical Report No. 4. Tennessee Valley Authority, Treasurer's Office, Knoxville, Tenn. Price $1. 423 pp. and 113 illustrations. 1941.

This volume describes how the Guntersville project fits into the program for unified development of the Tennessee river system. It also covers preliminary investigations for the project, including geology, river flow, and social and economic studies; lock, dam, and power house design; housing for employees and access routes to the dam site; construction methods, including construction plant and river diversion; relocation and adjustments made necessary by creation of the reservoir; initial operations; and a complete summary of construction costs. The appendixes include a complete statistical summary of the physical features of the project; reports of engineering and geologic consultants; and summaries of special tests such as model studies. Bibliographies on each phase of the project are also included.

ILLINOIS ELECTRIC UTILITIES, A COMPARATIVE STUDY OF 1940 SALES. Research Bulletin No. 32. Illinois Commerce Commission. Chicago, Ill.

This study considers the eleven largest Illinois electric utilities, which account for approximately 99 per cent of all electric sales made in Illinois under the jurisdiction of the commission. The sales in 1940 and 1939 of the eleven companies are summarized in Table I, page 11. Total electric operating revenue reached an all-time peak of $198,300,000 in 1940, a rise of 6.8 per cent over 1939. Total sales to ultimate consumers (see Table IX, page 21) amounted to $175,400,000 and 8,128,600,000 kilowatt hours last year, representing gains of 6.6 per cent and 9.7 per cent, respectively, compared with 1939.

IS FEDERAL CONTROL OF WATER POWER DEVELOPMENT INCOMPATIBLE WITH STATE INTERESTS? By John W. Scott. 9 *George Washington Law Review* 631. April, 1941.

THE ST. LAWRENCE SEAWAY. A special section by George W. Norris, Charles Poletti, Julius H. Barnes, and Edward J. Jeffries. *The New Republic*. August 4, 1941.

The March of Events

Power Load Rises

A MEASURE of the accelerated pace of defense production was provided on September 17th when the Federal Power Commission reported a 20 per cent increase in the nation's consumption of electric power in June correspondingly over last year.

The defense program caused a 12.5 per cent increase in electrical consumption in January, compared with January, 1940, a gain of 4 per cent in March over the corresponding month last year, and finally the 20 per cent rise recorded for June.

Warning that the defense effort's demand for power kept constantly ahead of the advance estimates of utility companies, the commission urged the earliest possible placing of orders for new generating capacity to be needed when the defense program reaches its anticipated peak in 1943 and 1944.

It said that "serious power shortages may develop in some areas if the longer-range forecasts cumulative errors of the magnitude that have occurred for 3-month periods."

As examples of these errors, the commission reported that the December, 1940, peak demands of 99 of the 158 reporting systems were 761,000 kilowatts more than anticipated in their September, 1940, estimates; March, 1941, peak demands were 581,000 kilowatts greater than estimated in December by 74 systems; and June, 1941, peak demands were 697,000 kilowatts more than estimated in March by 101 systems.

The Pacific Northwest showed the greatest increase, one of 58 per cent in June over the same month last year; North and South Carolina had a 31 per cent consumption rise; and Tennessee, heart of the TVA area, showed a 27 per cent gain despite a drought which cut water flow for hydroelectric power.

OPM Priorities Order

A MAINTENANCE, repair, and supplies priorities order designed to help thousands of public utilities in the nation was issued on September 17th by Donald M. Nelson, Director of Priorities, Office of Production Management. The new order permits utilities covered by the plan and their suppliers to use an A-10 rating to facilitate deliveries of maintenance and repair materials and operating supplies which are vitally needed for defense and essential public services.

Utilities which may use the new priority order are those engaged in one or more of the following services:

1. Supplying electric power directly or indirectly for general use by the public.
2. Supplying gas, natural or manufactured, directly or indirectly for general use by the public.
3. Supplying water directly or indirectly for general use by the public.
4. Public sanitation services, but not including manufacturers of public sanitation products.
5. Supplying central steam heating directly or indirectly for general use by the public.

The A-10 rating can be used by the utility or by the supplier—subject, of course, to the limitations of the order—to obtain three classes of material:

1. Maintenance material—needed for the upkeep of property and equipment in sound condition.
2. Repair material—needed for restoration of property and equipment to sound condition after wear and tear, damage, destruction, or the like.
3. Operating supplies—material essential to the operation of the utility involved and which is generally carried in the company's stores and charged to operating expenses.

The rating assigned by this order cannot be used for plant expansions or new improvements, or for expansion of the service area of the utility. However, the rating may be used in some cases to provide for connections for new consumers to the existing utility system and also for materials needed to relieve serious overloads.

NLRB Member Named

PRESIDENT Roosevelt completed reorganization of the National Labor Relations Board last month by nominating Gerard D. Reilly of Massachusetts as a member to succeed Edwin S. Smith, also of that state, who failed of reappointment when his term expired recently.

Reilly, a native of Boston, has been solicitor of the Labor Department since August, 1937. If confirmed by the Senate, he will be the youngest member of the board which has been a storm center of debate in and out of Congress for several years. He was thirty-five on September 27th. His appointment is for five years from August 27th.

Seeks FPC Authority

THE Panhandle Eastern Pipe Line Company recently asked the Federal Power Commission for authority to reclaim approximately 43 miles of unused 8-inch pipe in its Kansas facilities for construction of an extension of its system so as to bring natural gas into Galesburg, Illinois, before cool weather sets in.

In its application to the FPC, Panhandle Eastern explained that it had been unable to obtain delivery of sufficient 8-inch pipe for extension of the Illinois system to Galesburg before November, because of heavy demand for steel and priorities granted to the British government for such pipe.

Illinois Iowa Power Company agreed early this year to distribute natural gas instead of manufactured gas in Galesburg, providing Panhandle Eastern's subsidiary, Illinois Natural Gas Company, completed construction of this line to the city limits.

Acts to Liberalize Plant Amortization

THE first step was taken in Congress recently to place special tax allowances for defense plant expenditures on a more workable basis. The House Ways and Means Committee approved a resolution to liberalize and simplify application of the present plant amortization statute, which was passed last year as a part of the excess profits tax law and which permits under certain conditions a write-off for tax purposes of defense plant costs over five years.

This resolution was said to have the backing of the administration. It is intended to cut away a part of the red tape in which the special amortization has become involved, defeating the objective of encouraging investment of private capital in additional plant and equipment needed for production of defense requirements.

Cumberland Valley Bill

SENATE passage on September 17th of a bill to extend jurisdiction of the Tennessee Valley Authority to the Cumberland valley of Tennessee and Kentucky brought a decision from House advocates to seek immediate action by the House Military Affairs Committee.

Representative Priest, Democrat of Tennessee, author of a companion bill, said Chairman A. J. May, of Kentucky, of the Military Affairs Committee had promised to conduct hearings on the legislation "after emergency legislation had been disposed of."

TVA Chairman Named

THE Tennessee Valley Authority on September 16th announced that, upon the request of Dr. H. A. Morgan, President Roosevelt had designated David Lilienthal as chairman of the board of directors of the agency effective at once.

Dr. Morgan, who had been chairman of the board since March 23, 1938, will assume the title and duties of vice chairman, the post formerly held by Mr. Lilienthal. Dr. Morgan assumed the chairmanship after Dr. Arthur E. Morgan was removed by President Roosevelt.

He is a former president of the University of Tennessee and was one of the original directors of the TVA.

Mr. Lilienthal, who is forty-two, also was an original appointee to the board of directors of the agency, coming from Madison, Wisconsin, where he was state public utilities commissioner.

Additional TVA Fund Sought

PRESIDENT Roosevelt asked Congress last month for an additional $40,000,000 for expansion of the Tennessee Valley Authority to meet growing needs of defense industries for additional electrical power.

The money would be used to begin construction of hydroelectric projects on the Little Tennessee river near Fontana, North Carolina, and on the French Broad river near Dandridge, Tennessee; to install additional generating units with a total rated capacity of 324,000 kilowatts in existing TVA projects; to install an additional steam-electric generating unit with a rated capacity of 60,000 kilowatts in the Watts bar steam plant near Chattanooga, Tennessee; to purchase or build transmission facilities; and to acquire land.

Budget Director Harold D. Smith, in a letter approved by the President, said the additional facilities were needed to "meet the rapidly increasing demands for power from plants engaged in the manufacture of materials and supplies needed for national defense purposes."

Alabama

Gets SEC Approval

THE Securities and Exchange Commission last month authorized the Alabama Power Company to acquire mining equipment and 19,174 acres of coal land in Walker county. Steps for acquiring the property, owned by the Southeastern Fuel Company, a subsidiary of the General Corporation, were approved September 11th.

At the same time it was announced by Thomas Bragg, president of the Southeastern

uel Company, and vice president of the Alaama Power Company, that the properties were eing rehabilitated with production of coal.

Mr. Bragg said coal production would be rom three mine openings near Gorgas. Approximately $240,000 is being spent on rehabiliation, Mr. Bragg said, with about 125 men be employed in mining operations. Production was estimated at about 200,000 tons anually. The coal will be used by the comany's steam-generating plants at Gorgas.

Southeastern and General, the latter a subsidiary of the Commonwealth & Southern Corporation, will be dissolved under the plans and Commonwealth will acquire the holdings of General, with the exception of the latter's interest in Southeastern. General's interest in Southeastern would be transferred to Alabama Power Company, a subsidiary of Commonwealth, and put on the books as an additional $1,600,000 investment in Alabama common stock.

California

Power Plan Submitted

A CHARTER amendment authorizing the city of San Francisco to distribute electric ower was ordered submitted on the November th election ballot last month by the board of upervisors. The supervisors previously had pproved the $66,500,000 revenue bond propoition—known as "plan 9"—which is declared ufficient to purchase the Pacific Gas and Elecric distribution facilities and construct addiional properties.

The vote on submission of the amendment as 7-1. Voting "aye" were Supervisors McGowan, McSheehy, Mead, Ratto, Roncovieri, Schmidt, and Uhl. Dissenting was Supervisor Colman, advocate of an amendment to the Raker Act, as the way out of San Francisco's Hetch Hetchy electric power difficulties.

Only one minor change was written into the amendment by the supervisors. This placed a 5 per cent limit on the interest rate to be paid on the bonds, although E. G. Cahill, city manager of utilities, estimated the bonds could be sold for 3 per cent.

Rejected by the board were two other suggested changes. These would have "frozen" $2,000,000 of the operating surplus for transfer to the general fund for tax reduction and fixed "at not less" than $1,000,000 the amount to be paid annually into the city treasury in lieu of taxes, assessments, and license fees now paid by the company.

The city now receives $2,000,000 from sale of Hetch Hetchy power to the PG&E.

Connecticut

Verbal Slaps Swapped

MAYOR John W. Murphy and the New Haven Water Company exchanged verbal slaps on September 18th at a state public utilities commission hearing on the legality of the commission's action in 1939 in allowing the water company, a private utility, to increase its rates.

The city charged it had no advance notice of the rate increase. William B. Gumbart, counsel for the water company, accused the city of "suddenly changing horses" because it sought to question the legality of the commission's action, and withdrew its request for a hearing on the fairness of the new rates.

Gumbart then said he was unprepared to submit a brief on the question of legality, and asked more time. At this, Mayor Murphy stated:

"We object to any dilatory tactics and are amazed that the water company's counsel is unprepared. They are no busier than our corporation counsel and a week's delay is plenty. The people don't want delay and they won't stand for it."

When the commission gave Gumbart until September 25th to file his brief, Vincent P. Dooley, New Haven city counsel, refused to submit his until then.

The mayor told the commission that the city did not feel that it should be required to go to the expense of making a survey of the company's rates until it had been determined whether the method by which the increase was allowed was legal.

Florida

SEC Resolution Fails

A RESOLUTION calling upon the Securities and Exchange Commission to investigate Miami political activities and rates of the Florida Power & Light Company failed of adoption recently by a 2-2 split of the city commission.

Commissioner R. C. Gardner's abortive effort to put through the resolution, which declared Miami taxpayers had been "grossly imposed upon" by use of FP&L money in bus and water elections, provoked an exchange between Gardner and Commissioner L. D. MacVicar. MacVicar offered to support the resolution if Gardner would broaden the investigation to encompass campaign contributions from all sources and "at least go back to the tim you first ran for office."

Gardner changed his resolution to cover th entire period of the FP&L's existence, sinc 1924, but said there was nothing to be gaine by broadening the scope to cover other source of political contributions since the SEC wa powerless to go beyond the utility. Mayo Reeder and Gardner voted for the resolutio

Illinois

Reorganization Group Proposed

FEDERAL Judge Michael L. Igoe recently proposed formation of a new 3-man committee to make recommendations on procedures for bringing about a reorganization and unification of Chicago traction companies. He would have one member appointed by the Illinois Commerce Commission, one by the city of Chicago, and one by the court. The new committee's powers would be merely advisory, it was said.

Judge Igoe pointed out that to bring about unification of the properties and acceptance of Chicago's new traction ordinance an increase in fares probably would be needed to support a new capital structure for a reorganized company. He also pointed out that the increase in fares would have to be obtained through the state commerce commission with the consent of the city of Chicago and tha the new securities to be issued by the reor ganized company would have to be approve by the state commission.

He urged that there should be no workin at cross purposes on the matter between th city of Chicago, the state commission, and th court and that the coöperation of these bodie along with the companies' securities holder would be needed.

Judge Igoe set over until November 10t further hearings on the application for pay ment of August 1st interest on first mortgag bonds of the Chicago Railways Company, Chi cage City Railways Company, and the Calume and South Chicago Railways Company, a well as all other traction matters before th court.

Indiana

Ask Rate Inquiry

THE state public service commission last month received a request from the Gary city council and fifteen Gary consumers to conduct an investigation of alleged exorbitant and excessive rates now charged by the Gary Heat, Water & Light Company. Petitioner contended present rates are such as to yiel more than a fair return on the utility's valu ation.

The commission recently approved sale o the utility to the Northern Indiana Publi Service Company.

Iowa

Plan Gas Rate Review

MAYOR Mark L. Conkling of Des Moines recently said he would seek a city council meeting with C. A. Leland, head of the gas and electric utilities in the city, to see whether a gas rate reduction could be obtained.

Meanwhile, Attorney Gregory Brunk, spokesman for five men authorized by the city to negotiate terms for possible municipal purchase of the utilities, said the Securities and Exchange Commission had agreed to let his group cross-examine witnesses and make arguments at a hearing to be held in Washington D. C., this month.

The mayor's promise followed appearance before the council of Sam K. Miller, representative of a consumers' organization. Miller recalled it was in August, 1940, that rates were last reduced and that then it was promised reduction proposals would not be brought up for a year.

Whether or not the city buys the utilities, purchase may be delayed "several years," Miller said, and added that further reductions were in order now.

Kentucky

Study Enabling Act

STUDY of privately and publicly owned utilities operating under TVA regulations was ordered by Governor Keen Johnson on September 19th in preparation for legislative action to enable Kentucky cities to use TVA power. The governor authorized John S. Kirtley, public service commission chairman, and three members of his staff to visit plants in Alabama, Georgia, Tennessee, and Mississippi.

Proposals to enact legislation empowering Kentucky municipalities to deal with TVA were made following a court of appeals ruling that Kentucky law prohibits its governmental units from binding themselves by the rates and other regulations of a TVA contract, on the ground they would be giving away powers specifically granted them by the legislature.

The state public service commission group was ordered to study "operations, rates, economics, and public regulations, as well as other aspects" of plants using TVA current. The governor's order explained he needed the information to form an opinion about the legislation expected to be introduced in the 1942 legislature.

Kirtley said he would be accompanied by J. V. Jones, assistant attorney general assigned to the state commission; Hugh B. Bearden, its principal consultant; and Miss Forrest Miller, its reporter.

Further study was ordered on two of the most controversial questions involved in the use of TVA power by municipalities—taxation of municipal utilities and whether municipalities need certificates of convenience to start their own plants—at a meeting in Louisville last month to consider the first draft of the bill which authorizes communities to use TVA facilities.

State officials, representatives of TVA and REA, and representatives of the Kentucky Municipal League, which is sponsoring the legislation, attended the conference in the office of Law Director Hal O. Williams. Mr. Williams is chairman of the legislative committee of the league.

Section 20 of the proposed bill relates to taxation of municipally owned utilities and Carl B. Wachs, Lexington, secretary of the league, said it was worded to place municipally owned utilities "on the same basis as privately owned plants so far as taxation is concerned."

William C. Fitts, Jr., general counsel for TVA, said this position raised a basic question. "Private utilities are operated for profit," he said. "Publicly owned utilities are not. Should there be a difference, then, with regard to taxation and particularly income taxes?"

The discussion involved the state officials, who indicated they did not wish to lose any tax revenue if cities generally turn to municipal plants, assuming the state legislature approves the bill.

Power Rate Cuts Made

REDUCTIONS in electric rates totaling a net $15,103 annually by the Community Public Service Company in six districts it serves were announced recently by the state public service commission.

The cuts, effective with bills rendered on and after September 1st, will be in Columbia, Mount Vernon, Owenton, Owingsville, Walton, and Warsaw and areas near those cities. They apply to residential and commercial rates.

The commission said the gross cut approved was $19,500 a year, but that the company showed it would be necessary to pay approximately $4,400 a year more for labor and this was allowed, making the net reduction $15,103.

The reductions announced were: Columbia, residential, 4.26 per cent and commercial 10.45 per cent; Mount Vernon, 4.91 and 10.49; Owenton, 2.55 and 4.56; Owingsville, 4.26 and 11.26; Walton, 3.27 and 10.40; and Warsaw, 3.14 and 3.66.

AFL Defeated

THE Independent Protective Association of Utility Workers was recently voted sole bargaining agent for the Louisville Gas & Electric Company, defeating the AFL's International Brotherhood of Electrical Workers, in an election conducted by the National Labor Relations Board at Louisville.

Maryland

Utility Association Meets

BEGINNING September 5th the Maryland Utilities Association held its 2-day midyear meeting at Ocean City, Maryland. Approximately 260 members were in attendance. The meeting began with a combined session of the transportation, gas, and electric group.

They heard Chester W. Cambell, borough superintendent of New York city, talk on building protection in case of aerial bombardment. Paul Merrick of the Ohio Bell Telephone Company discussed the need for general coöperation in utility operations. Larry F. Livingston of the DuPont de Nemours Company gave an interesting address on chemical

fabrication of various substitute materials.

On the evening of September 6th, an informal banquet was held, followed by an address by Dr. John L. Davis, of New York.

Michigan

Gas Rate Order

CITY and county officials promised a fight to the finish recently on the state public service commission's order of September 19th boosting gas rates in Detroit by approximately $500,000 annually. Both Prosecutor Dowling and Corporation Counsel Paul E. Krause denounced the commission's order as hasty and unfair.

"It is apparent to me," said Dowling, "that this public service commission has become a public utilities commission. It took the people of Detroit three years to get gas rates reduced for the first time in twenty-three years. It took the gas company only two months to get action on their petition for a raise in rates. It is absolutely unwarranted and unfair and we have just begun to fight."

Krause pointed out that the city and county could appeal the commission's order to the courts on a question of fact and said action would be taken.

Dowling said he had asked the Michigan commission to hold in abeyance its decision until a Federal Power Commission hearing on Detroit gas rates had been held in Washington, October 6th. The prosecutor added that no attention had been paid to his request.

Features of the state commission's order, effective on all bills starting September 20th, were:

Continuance of the net $700,000 annual reduction in gas rates to all consumers, as ordered last November 15th, although the original $500,000 boost in space heating (furnace) rates was cut to $233,000 and the original $1,200,000 cut in general service rates was pared to $934,000.

Abolition of the so-called "promotional rate," based on gas usage prior to the introduction into Detroit of natural gas—a long-standing source of customer bitterness.

Abolition of the "Detroit gas unit," a theoretical unit created at the time natural gas became available.

Revision of the gas company's penalty schedule for delinquent bills. Formerly this was 10 cents a DGU and might run to 30 per cent of the bill. Now it is limited to a flat 10 per cent of the bill, with a probable $65,000 a year saving to customers.

"In our order we have continued the $700,000 saving to Detroit area customers generally and have, we hope, achieved the 5½ per cent return on its investment which we found the company merited," O'Hara, commission chairman, said.

Missouri

Nonstrikers Restore Power

ELECTRIC energy flowed normally through the distribution facilities of the Kansas City Power & Light Company on September 17th after a strike of AFL workers had darkened the city, disrupted trolley and electric bus service, and threatened the water supply during four early morning hours.

The city went black at the stroke of midnight when, without warning, AFL electrical workers threw the power company's master switches.

However, a sufficient force of nonstriking employees restored service before the majority of the sleeping populace was aware of the shutdown.

The strike caught the city off guard inasmuch as the AFL union had dropped an original plan to strike on September 7th pending consideration of the case, involving a question of jurisdiction, by the Defense Mediation Board in Washington, D. C. On September 16th, however, the Mediation Board held that the dispute was one for the National Labor Board and the courts to settle, and soon thereafter the walkout was called.

The AFL union, which represents 350 production employees in collective bargaining, had demanded that it also represent 200 other workers.

The company contended that the latter were members of the Independent Union of Utility Employees with which it had entered into a contract.

Before the day was over, state and Federal authorities had joined in a demand that the strikers go back to work, six men had been arrested, and Governor Forrest C. Donnell had ordered a battalion of home guards to stand by for possible call.

Agreement Averts Strike

THE Labor Department announced recently that a tentative agreement, avoiding a strike of electric workers in the St. Louis area, had been achieved following four days of conferences between officials of the Union Electric Company of Missouri, the Union of Op-

erating Engineers (AFL), and the Labor Department's conciliation service.

The agreement, which must be ratified by the union membership before it becomes effective, provided for wage increases, time and a half for overtime, sick leave, and vacations. A committee was to be established to grade various types of jobs held by union workers.

Nebraska

Bond Issues Approved

VOTERS of Nebraska City on September 9th approved two revenue bond issues totaling $300,000 for the purchase of water and gas distribution systems in the city.

The election cleared the way for municipal ownership of utilities for the first time in the history of the city. Nearest approach to such a move was made in 1938 when it was voted to condemn gas, water, and electric properties then owned by the Central Power Company, but the issue was subsequently tied up by court litigation. The vote on a $230,000 bond issue to buy the water system was 343 to 290 and the $70,000 bond issue for gas system purchase was approved 314 to 271.

The water and gas utilities are owned by Fred A. Grosser, Chicago, who acquired them at the time the Central Power Company sold its electrical system to the Consumers Public Power District.

New York

Transit Case Postponed

TRIAL of New York city's suit for a declaratory judgment holding that it is without authority to make collective bargaining contracts with labor unions representing the city transit employees was recently postponed until after election.

The case, which was scheduled to come up on the calendar of the state supreme court at its opening on September 22nd, will be restored November 17th, according to a stipulation filed by the city and counsel for the Transport Workers Union, the Brotherhood of Railroad Engineers, and the Brotherhood of Locomotive Engineers.

The reason given for adjournment of the trial, which Justice Lloyd Church ordered in June, was that depositions had not been taken. The depositions have been sought by the unions to support a contention that the city has the power to bargain with them, as shown by labor contracts reached with other municipal governments.

"Cost of Living Bonus"

THE Central New York Power Comany, affiliated with the Niagara Hudson system, on September 21st announced a $2 weekly "cost of living bonus" for employees in the Syracuse area. The bonus goes to 1,200 persons and a bonus of $1.80 to $2 weekly is being paid to 3,000 employees in other areas.

Oklahoma

Asks Gas Rate Increase

AN application of the Oklahoma Natural Gas Company to extend its rates to cities where service was taken over from Central States Power & Light Company, which means increases for six cities and lower rates for three, was before the state corporation commission on September 16th.

W. J. Armstrong, member, said attorneys for the company asked the commission to approve the rate schedule upon its showing, but that a hearing would be necessary before approval is given.

Cities and town whose gas rates are involved include Bessie, Carter, Dill, Clinton, Elk City, Erick, Henryetta, Hobart, Holdenville, Jennings, Lone Wolf, Cordell, Oilton, Okemah, Pawnee, Quinton, Rocky, Sentinel, Stigler, Stillwater, and Wetumka.

The Oklahoma Natural Gas Company asked to extend its rate of 45 cents a thousand for the first 100,000 cubic feet and 18 cents thereafter for domestic consumption to all the cities whose service was acquired.

Paul Reed, auditor, said the wholesale rate to Consolidated Gas Utilities Company which serves Cushing would be raised from 14 cents to the 25- and 15-cent gate rate of Oklahoma Natural.

Cities whose domestic rates would be increased include Henryetta, Wetumka, Stillwater, Okemah, Holdenville, and Quinton. Those lowered are Pawnee, Jennings, Oilton.

Pennsylvania

City Opens Transit Fight

THE city of Philadelphia formally opened it fight before the state public utility commission on September 15th to block the Philadelphia Transportation Company's proposed fare increase. A petition filed in Harrisburg by City Solicitor Francis F. Burch attacked the proposal as "unreasonable, unjust, and discriminatory."

The state commission subsequently postponed the effective date of the proposed fare increase from January 15th to July 15th, and announced it would begin an investigation to determine whether the request was reasonable. The company originally sought to put the new rates into effect October 1st. After strenuous opposition from the city and the public, the company had voluntarily postponed the date until January 15th.

Tennessee

Transit Purchase Plan Studied

THE state utilities commission last month took under advisement the application of the Southern Coach Company for approval of its plan for financing the purchase of the transit systems in Nashville and Chattanooga.

Announcement of the commission was made after a 3-hour hearing before Commissioners Porter Dunlap, W. D. Hudson, and Leon Jourolmon at which time the company's proposal was outlined by Paschal Davis and Carmack Cochran, attorneys. Paul M. Davis, head of the syndicate, also attended.

Texas

Plant Set-up OK'd

A PROPOSAL to increase the capacity of the Mountain creek generating plant of the Dallas Power & Light Company was recently approved by the OPM in Washington and municipal officials were asked to give the go-ahead signal on the $2,256,000 project.

Utilities Supervisor Frank R. Schneider said he would submit his recommendation to the council within a month after he has completed an investigation of the need. The plant now has a capacity of 31,250 kilowatt hours and 25,000 will be added, power officials said, as the notified the city of the Federal decision which was sought at the suggestion of councilmen.

Utah

Adjustment Plan Dropped

THE Utah Power & Light Company on September 8th eliminated commodity index and tax adjustment clauses from schedules previously filed with the state public service commission to reduce commercial and street-lighting rates, effective September 11th.

The commission had objected to retaining the adjustment clauses, but was reported to be studying a proposal to retain the so-called power factor clause which the company contended was necessary for proper operation of the schedule.

Wisconsin

Commission Hears Plans

THE proposed DuBay or Knowlton dam and power development will produce about 43,000,000 kilowatt hours of power a year—a power facility that will be turned over to the Federal government for defense purposes "if ever it is necessary," state public service commission examiners were told recently.

The examiners, Adolf Kanneberg and Herbert T. Ferguson, heard the application of the Consolidated Water Power Company, Wisconsin Rapids, to build a $2,500,000 dam and power plant on the Wisconsin river at Knowlton, eleven miles north of Stevens Point.

William Theile, chief engineer for Consolidated, said total estimated cost of the project would be $2,055,039. Transmission lines would cost "about $160,000." Theile said he was certain his estimates of cost would be "reasonably accurate" because they were based on company experience and the fact that a "good deal of the equipment already has been purchased."

The Latest Utility Rulings

Natural Gas Pipe-line Construction to Be Approved if Financial Backing Assured

CONSTRUCTION and operation of a natural gas pipe line from the Alabama state line eastwardly through the state of Tennessee to the North Carolina state line won approval by the Tennessee commission, but an application for a certificate was retained for future disposition in view of the need for assuring the large financial backing which would be necessary. The enterprise involves construction of facilities which will have a value of nearly $25,000,000.

Distributing companies in Tennessee made no objection to construction but confined their arguments to the necessity of restrictions so that the pipe-line company would not compete locally. A Tennessee statute prohibits the commission from granting certificates for lines or systems which will compete with others unless the commission shall first determine that existing facilities are inadequate or that the public utility operating the same has refused or neglected, or is unable, to make necessary extensions and additions. The commission said that by reasonably construing this law the commission would be able to maintain control of the service of natural gas through the mains of the applicant, preserving and safeguarding the mutual rights of the parties involved. It was said:

> The policy which the commission will foster will be, so far as possible, to establish rates from the applicant to the various distribution companies which will enable them to serve all proper customers within their respective territories. Exceptions to this may occur; but the commission recognizes that if the local distribution company can feasibly render any service within its territory, it should have the first opportunity to do so. Accordingly, the applicant, before rendering service direct to any consumer of natural gas, whether such consumer be residential, commercial, or large industrial, will have to apply to the commission under §§ 5502 and 5504 for a certificate to render such individual extension of service, wherever such a customer is within the existing territory of a distribution system. Upon such application, border-line cases, which are particularly likely to arise on service to industrial customers, will be settled by the commission as they arise; and the commission will determine whether the pipe-line company or the established distribution company should be able to serve any particular customer most properly and adequately. The commission will thus be enabled to exercise its sound discretion upon presentation of the pertinent facts in individual cases. In effect this means that the certificate which will be granted by the commission will authorize only service to existing distribution companies and likewise to industrial plants in areas not served by existing distribution plants.

Opposition to the pipe line was presented by various intervening coal trade associations, coal-mining companies, mine workers' organizations, and coal-carrying railroads. The commission gave due consideration to this evidence, stating that is was fully cognizant of and sympathetic with the economic dislocations that frequently result from technological advances. But as a regulatory body the commission could not afford to mold its policies and decisions in such a way as to afford special protection to vested interests at the expense of technological progress and the public good. Moreover, in the words of the commission:

> It is also true that when special interests seek to entrench themselves squarely athwart the path of progress, there is ordinarily a tendency on their part to exaggerate the losses they expect to sustain if they are ultimately swept aside. Prospective injuries are imagined under circumstances which really

promise ultimate benefits to the protesting groups. Thus, coal interests vigorously fought the development of cheap hydroelectric power by the TVA on the ground that the utilization of new water-power resources would reduce the market for coal for steam power. But cheap TVA electricity has so stimulated general industrial development in the Tennessee valley that the consumption of coal in the area, far from being reduced, has actually more than doubled in recent years.

The facts submitted satisfied the commission that there was an adequate supply of natural gas, that the proposed facilities would be adequate, that estimated construction costs were reasonable, and that there would be a sufficient market to sustain the project. Rates offered by the applicant were received for filing but were neither approved nor disapproved. Final determination as to rates was reserved for a subsequent order.

The commission adverted to the question of the national emergency, pointing out that there had been great industrial development in the region and that natural gas would relieve to some extent the demand on inadequate electric capacity. One of the most imperative things in our present defense economy, said the commission, is to supplement the known deficit of electric capacity in the area. *Re Tennessee Gas & Transmission Co. (Docket No. 2506).*

Stock Sales to Employees

THE California commission had no objection to a public utility corporation inviting employees to acquire its stock but felt that no difference in price or terms of payment should be made in offerings to the public and to employees.

The company's proposal had been to sell stock to the general public at $26.50 a share and to employees at $25 a share. The public would be asked to pay cash for the stock or make a down payment of $10 a share and monthly payments of $1.50. Employees would be called upon to make a down payment of $5 a share and twelve monthly payments of $1.50 and one of $2, subject to interest adjustment. Employees' payments would be deducted from their payrolls, and they were not to be allowed to anticipate any monthly payments. *Re Pacific Gas & Electric Co. (Decision No. 34369, Application No. 24287).*

Expense of Establishing Continuing Property Records

AMONG the questions involved in a rate case before the New York commission was the question of allowances for the cost of establishing continuing property records as required by a New York statute. Commissioner Van Namee wrote the opinion for the commission, holding that no reduction in rates was justified. Commissioner Lunn concurred, while Commissioner Brewster concurred except as to the treatment of overheads and cost of establishing continuing property records, Commissioner Maltbie not voting, Commissioner Burritt absent.

A case relating to continuing property records had not yet been completed and additional costs would be incurred by the company. Commissioner Van Namee thought that it would be unfair to take account only of expenses actually incurred during the past year and overlook expenditures in two previous years. He believed that the charge should be spread over a period of ten years. At the end of such period, he said, the cost of establishing the records should not be considered in fixing rates. He said in part as follows:

Section 114 passed in 1934 provides further for proper records to be kept showing "reserves accumulated to provide for the retirement or replacement of said physical property." Surely it cannot be contended that the additional expense of keeping such records is not a part of the proper expense of the company and to be considered in ascertaining the proper amount of operating expenses to be allowed in rate cases. In effect, a ruling that no item representing the average fair cost spread over a period of years of the compiling of the original continuing property record is to be allowed as operating expense is to say that such disbursements can only be charged against surplus. These items are properly an operating expense, the same as the rest of the cost of the accounting work done by the company. Other companies which keep such record have always charged such expense of originating and maintaining the same to operating expenses, but there was no compulsion on the other companies to do so. By legislative enactment, the companies are all compelled to keep such records and the expense of such additional work should be charged to operating expenses the same as similar items of accounting.

Reference was made to the fact that for many years companies were allowed to keep their depreciation accounts upon the retirement reserve system, but that the commission was endeavoring to have the companies adopt the straight-line method of depreciation, which is a more complicated system and involves much more accounting work. He asked whether it could be contended that the difference in cost of keeping the old retirement reserve system and that of keeping the straight-line depreciation system was not a charge against operating expenses.

He concluded that the expense of originating and ascertaining the continuing property records and record of original cost, where no evidence of fraud or of wastefulness in the method of preparation is found, may fairly be considered an operating charge. *Customers v. New York Water Service Corp. (Case No. 10066).*

City Denied Right to Recover Voluntary Payment

THE circuit court of appeals, fourth circuit, upheld a lower court decision [(1940) 34 F Supp 339, 36 PUR (NS) 495] in an action against a power company to recover part of the amount paid for electricity. Payments, the court found, had been made without protest on a month-to-month basis, and these payments, it was said, certainly constituted as to each month an election to pay on the basis of the schedule under which they were paid and a waiver as to that month of the right to any contract under another schedule which the company refused to apply to municipal use.

Even if it were conceded that the rates of the other schedule were the only ones properly applicable, the court said, the payments under the schedule applied by the company were made voluntarily and without protest, with full knowledge of the facts, and no part of the same could be recovered for that reason.

The city contended that the rule as to voluntary payment was not applicable to it because it was a municipal corporation. The court replied that no such distinction is recognized by the law of North Carolina, which denies the recovery of payments voluntarily made, without mistake of fact, to public corporations as well as to private individuals. Moreover, it was noted that the purchase and sale of power by the city was an undertaking carried on in its private and proprietary capacity.

The court said further:

> In the case at bar not only was the city acting as an ordinary private corporation in the purchase and sale of electric current, but it is stipulated that, after paying the rates charged by the power company, it made a profit thereon in the year 1938 exceeding $200,000. To hold, under such circumstances, that it was not bound by the rules governing private corporations in the transaction of their business would be without justification and in conflict with well settled law.

City of High Point v. Duke Power Co. 120 F(2d) 866.

Exemption of Foreign Subsidiaries under Holding Company Act

APPLICATIONS were made to the Securities and Exchange Commission by Southern Sierras Power of Mexico, S. A., and the Hydro-Electric Securities Company (subsidiaries of California Electric Power Company), pursuant to § 3 (b) of the Holding Company Act, for an exemption because of foreign operations. Exemption was granted to Southern Sierras upon a finding that it was operating exclusively in Mexico and derived none of its income from sources within the United States, that it had assets which were physically connected with those of its parent, that it owned no securities of any other public utility or holding company, and that the parent had no other public utility subsidiaries. Hydro-Electric, however, failed to establish that it derived no material part of its income, directly or indirectly, from sources within the United States. Therefore it was held not entitled to an order granting exemption.

It was pointed out, however, that in view of an exemption previously granted to Hydro-Electric as a holding company pursuant to § 3 (a) (5), denial of the application for exemption as a subsidiary company would not deprive California Electric of its present exemption as a holding company, because Rule U-1 provides in effect that subject to the provisions of Rule U-6 a holding company shall be exempt from §§ 4 and 5 (a) if each of its public utility or holding company subsidiaries has received certain specified exemptions, such as the commission had previously granted Hydro-Electric under § 3 (a) (5) and was now granting Southern Sierras under § 3 (b). *Re Southern Sierras Power of Mexico, S. A. et al. (File No. 31-515, Release No. 2952).*

Elimination of Nonutility Subsidiary Interests from Holding Company System

NONUTILITY subsidiary interests of the United Gas Improvement Company were held by the Securities and Exchange Commission not to be reasonably incidental or economically necessary or appropriate to the operations of any system retainable by the company. It was ruled that the divestiture by the holding company of its direct or indirect interest in such properties should be required.

These interests consisted of subsidiary companies engaged in the ice, ice cream, railroad car icing, cold storage, water, and real estate businesses outside the area to which were limited the single integrated public utility system and the additional systems claimed by the holding company to be retainable under the standards of § 11(b) (1) of the Holding Company Act. They were found by the commission to have no relation to the operations of utility subsidiaries in such area, and it was not shown that the retention of such interests was necessary or appropriate in the public interest or for the protection of investors or consumers and not detrimental to the proper functioning of any retainable integrated public utility system or systems.

The holding company contended that the commission could not enter an order requiring the divestiture of nonutility subsidiary interests until it had designated the single integrated public utility system and the additional systems retainable under the standards of § 11(b) (1). The company suggested that the immediate entry of an order of divestiture would deprive the company of an adequate opportunity to be heard in respect of the issues presented by that section.

The commission held, under the circumstances of the case (where there had been complete agreement as to the outside limits, at least, of the integrated pub-

lic utility system or systems retainable and where the holding company had not demonstrated any relation of the nonutility subsidiaries to any integrated public utility system claimed to be retainable), that the contention was not a bar to the immediate entry of an order on the basis of the record made requiring divestiture of nonutility properties to comply with the statute. *Re United Gas Improvement Co. et al. (File No. 59-6, Release No. 2913).*

Activities at Fort and Free Hydrant Service Considered in Estimating Revenues

THE New Jersey board, in estimating the revenues of a water company under proposed rates, concluded that, in view of defense activities, increased consumption at Fort Monmouth would continue for a reasonable period in the future and that consideration must be given to such additional revenues. The board also added to the revenue estimates an amount which should be collected for fire hydrants previously unbilled. The record showed that fifty-seven hydrants had never been billed to municipalities. The board commented:

> This is the type of discrimination that it was sought to end by the act under which this board functions. This "free service" was not in fact free. Its cost was borne by the other public and private consumers.

Fair value for rate making was determined after a consideration of reproduction cost, original cost, and book value, without any separate allowance for going value. Going value, it was said, is not something to be read into every balance sheet as a perfunctory addition. The board considered that where there was no satisfactory proof of the amount of going value, it should be excluded as an item of property to be separately appraised. It recognized, however, that there was an element of value in an assembled, established, and successfully operated property and considered this element in its decision.

Present rates were yielding a return of only 4.40 per cent. In the opinion of the board this rate was inadequate. Proposed rates would produce a return of 6.34 per cent. The board thought this rate was excessive under present-day conditions. Rates to produce a return of about 5.52 per cent were approved. *Re Monmouth Consolidated Water Co.*

Management Contract Disapproved As Not in the Public Interest

A PROCEEDING on motion of the New York commission to investigate, among other things, the management contract of the International Railway Company with Mitten Management, Inc., resulted in disapproval of the contract and a requirement that it be canceled. The record as a whole, said the commission, warranted the conclusion that Mitten was unnecessary to IRC.

Specifically the following findings were made: The contract is not in the public interest because (1) it is unnecessary and is an unnecessary expense, as IRC has an adequate and reasonably efficient organization capable of managing its own business, system, and property; (2) because the charge for service billed to IRC is not the cost to Mitten for the service of each of the principals operating the management company and has not been shown to be the reasonable cost of performing such service; (3) because, with a Mitten-dominated board of directors, Mitten can perpetuate itself and continue to increase fees for services by simply charging more time to IRC;

and (4) because under Mitten management the property has deteriorated, little improvement in revenue has been accomplished since the depression low of 1933, deficits continue to accumulate, liabilities have accrued, sufficient depreciation reserve has not been accrued, and the financial structure has reached a serious condition.

The commission assumed jurisdiction notwithstanding a legal objection that §110, subdivision 3, of the Public Service Law confers no lawful power on the commission to disapprove the contract. It had been alleged that to the extent that this section of the law purported to confer any such power, it was unconstitutional, illegal, and void. *Re International Railway Co. (Case 10419).*

Accounting for Premiums on Bond Sale and Bond Redemption

THE California commission, in authorizing the issuance of first mortgage bonds, approved a proposal to credit to an Unamortized Premium on Debt account the premium which it would receive upon the sale of bonds, less expenses of sale, and thereafter to amortize such premium over the life of the bonds by credits to an Amortization of Premium on Debt Credit account.

Likewise, the commission did not object to the company's proposal to charge to Unamortized Debt Discount and Expense the premium it would pay in redeeming outstanding bonds and thereafter to amortize such sum on or before September 1, 1965, or in the alternative to charge such sum to surplus forthwith, or a portion thereof equal to its estimated tax saving less duplicate interest. The commission reserved the right to determine at another time if the charges to unamortized debt discount and expense pertaining to the outstanding bonds were properly includible in the cost of money obtained through the issue of the new bonds. The old bonds bore an interest rate of 4 per cent while the new bonds were to pay 3¼ per cent. *Re Coast Counties Gas & Electric Co. (Decision No. 34326, Application No. 24262).*

Other Important Rulings

THE supreme court of Vermont held that the commission had no jurisdiction over a petition brought by landowners to assess damages for injuries to the properties of the petitioners claimed to have been caused by the maintenance and operation of a hydroelectric dam, since the statute conferring broad powers upon the commission must be construed to avoid unconstitutionality by transferring powers of a court to the public service commission. *Trybulski et al. v. Bellows Falls Hydro-Electric Corp. 20 A(2d) 117.*

A petition for authority to extend a motor bus route over a road which was to be reconstructed by the state highway department was denied by the New York commission where it appeared that, although operation would be a public convenience, no contract had as yet been let for the new construction and, after the contract had been let, it would probably be two years before construction would be completed. It was not considered good policy to grant a certificate where operation was to begin two years hence. *Re Hudson Transit Corp. (Case No. 529).*

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*

PREPRINTED FROM

Public Utilities Reports

COMPRISING THE DECISIONS, ORDERS, AND RECOMMENDATIONS OF COURTS AND COMMISSIONS

VOLUME 40 PUR(NS) NUMBER 1

Points of Special Interest

¶ *These reports are published annually in five bound volumes, with an Annual Digest. The volumes are $6.00 each; the Annual Digest $5.00. A year's subscription to* PUBLIC UTILITIES FORTNIGHTLY, *when taken in combination with a subscription to the Reports, is $10.00.*

Titles and Index

TITLES

INDEX

PUBLIC UTILITIES REPORTS

SECURITIES AND EXCHANGE COMMISSION

Re Engineers Public Service Company et al.

[File No. 59-4, Release No. 2897.]

Intercorporate relations, § 19.8 — Admissibility of evidence — Integration proceeding — Constitutionality of statute.

1. Evidence bearing solely on the constitutionality of the Holding Company Act should be excluded in an integration proceeding under § 11 of the act, 15 USCA § 79k, since it is not relevant to any of the issues before the Securities and Exchange Commission, its admission would encumber the record, and an attack upon the constitutionality of the act prior to a determination by the Commission as to what action must be taken under § 11(b) (1) would be premature, p. 5.

Commissions, § 30 — Jurisdiction — Constitutionality of statute.

2. The Securities and Exchange Commission has no authority to pass on the constitutionality of the Holding Company Act which it is called upon to administer, p. 5.

Intercorporate relations, § 19.5 — Simplification of holding company system — Single integrated system — Additional systems — Geographical limitations.

3. Clause (B) of § 11(b) (1) of the Holding Company Act, 15 USCA § 79k(b) (1), permitting continued control of additional integrated public utility systems by a holding company, restricts such additional systems to those operating in a state in which the principal system operates, or in states adjoining such a state, or in a foreign country contiguous thereto, p. 10.

Intercorporate relations, § 19.5 — Simplification of holding company system — Single integrated system — Selection of additional system.

4. A holding company which, in a proceeding under § 11(b) (1) of the

Holding Company Act, 15 USCA § 79k(b) (1), has not selected the principal integrated public utility system to which the operations of the holding company system will be limited, may properly be permitted to select one of its two most profitable integrated systems, where a choice of either would be acceptable and the choice is a close one, whether or not such right of selection belongs to the holding company or to the Commission, p. 23.

Intercorporate relations, § 6 — Powers of Commission — Simplification of holding company system — Advisory findings — Selection of principal integrated system.

5. The Commission has discretion, although it is under no duty to do so, to try ancillary issues and make advisory findings in a proceeding for simplification of a holding company system under § 11(b) (1) of the Holding Company Act, 15 USCA § 79k(b) (1), in order to aid the holding company to make a selection of the principal integrated public utility system to which the operations of the holding company would be limited, p. 23.

Intercorporate relations, § 19.8 — Simplification of holding company system — Findings by Commission — Status of property to be divested.

6. A determination should not be made, in a proceeding for the simplification of a holding company system under § 11(b) (1), 15 USCA § 79k (b) (1), as to the status of nonretainable property belonging to subsidiaries which are not registered holding companies, as such findings would be advisory only and would be largely academic and would not be materially helpful if made in such proceedings, p. 24.

Intercorporate relations, § 19.8 — Simplification of holding company system — Findings by Commission — Status of property to be divested.

7. A determination should be made, in a proceeding for simplification of a holding company system under § 11(b) (1) of the Holding Company Act, 15 USCA § 79k(b) (1), as to the status of nonretainable properties belonging to a subsidiary which is a registered holding company, but whether made before or after the top holding company is ordered to divest itself of the subholding company is a matter within the discretion of the Commission, p. 26.

Intercorporate relations, § 19.3 — Simplification of holding company system — Divestment of interests — Retention of investment interests.

8. A top holding company should be required, in a proceeding for simplification of the holding company system under § 11(b) (1), 15 USCA § 79k (b) (1), to divest itself of all its interests in subsidiary companies operating utility systems and other businesses which the holding company system could not continue to operate under § 11(b) (1); and a mere reduction of its holdings of voting securities of such companies would not be sufficient to constitute compliance with that section, p. 27.

Intercorporate relations, § 19.4 — Simplification of holding company system — Geographical limitations on additional systems — Congressional intent — Legislative history.

Discussion of congressional intent with respect to geographical limitations on additional systems under § 11(b) (1) (B) of the Holding Company Act, 15 USCA § 79k(b) (1) (B), with a consideration of the history of the legislation in Congress, p. 11.

[July 23, 1941.]

RE ENGINEERS PUBLIC SERVICE CO.

PROCEEDING *under § 11(b) (1) of the Holding Company Act, 15 USCA § 79k(b) (1), for simplification of holding company system; determination made by Commission and order issued. For statement of tentative conclusions see 37 PUR (NS) 263.*

APPEARANCES: William E. Tucker and Charles D. G. Breckenridge, of Mudge, Stern, Williams & Tucker, and T. Justin Moore and Richard W. Emory, of Hunton, Williams, Anderson, Gay & Moore, for the respondents; Harlow B. Lester, James Fischgrund and Maurice C. Kaplan, for the Public Utilities Division of the Commission.

By the COMMISSION: This is a proceeding instituted by our order[1] under § 11(b) (1) of the Public Utility Holding Company Act of 1935, 15 USCA § 79k, against Engineers Public Service Company, a registered holding company, and each of its subsidiary companies. The purpose of the proceeding is to carry out the statutory mandate contained in that section of the act, that we "require by order, after notice and opportunity for hearing, that . . . [the respondents] shall take such action as the Commission shall find necessary to limit the operations of the holding-company system . . . to a single integrated public-utility system,[2] and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public-utility system: *Provided, however,* that the Commission shall permit a registered holding company to continue to control one or more additional integrated public-utility systems . . ." if such systems meet the statutory standards prescribed in § 11(b) (1).[3]

Respondents moved to dismiss the proceeding on the ground that no preliminary report of studies by the Commission under § 11(a) or § 30 of the act, 15 USCA § 79z–4, had been rendered to respondents in respect of their holding company system. In that connection respondents contended, among other things, that our notice and order were improper because, in their failure to specify in what respects such system did not comply with the standards of § 11(b) (1), they did not tender specific issues for hearing and therefore cast an undue burden on the respondents. We construed the motion to dismiss as in effect a request for a statement setting forth our tentative views as to what action is necessary to bring about compliance by the respondents with § 11(b) (1).[4] We also directed the Public Utilities

[1] Order dated February 28, 1940, Holding Company Act Release No. 1945.

[2] The term "integrated public-utility system" is defined in § 2(a) (29) of the act, 15 USCA § 79b.

[3] Section 11(b) (1) further provides:
"The Commission may permit as reasonably incidental, or economically necessary or appropriate to the operations of one or more integrated public-utility systems the retention of an interest in any business (other than the business of a public-utility company as such) which the Commission shall find necessary or appropriate in the public interest or for the protection of investors or consumers and not detrimental to the proper functioning of such system or systems."

[4] Re Engineers Pub. Service Co. (1940) 7 SEC 371. Similar questions have been raised in other proceedings under § 11(b) (1), *e. g.*

Division to prepare a report of their studies of the Engineers system to aid us in arriving at tentative conclusions, and postponed the hearing herein pending the preparation of our statement and to afford the respondents sufficient time to prepare for hearing on the basis thereof.

Studies of the respondent's system having been made and reported to us by the Public Utilities Division,[5] we issued a statement of our tentative conclusions on March 11, 1941, 37 PUR(NS) 263. At the same time we ordered a hearing to be held before us on March 25th to consider (a) the issues in this proceeding, (b) the simplification of issues, (c) such facts and issues as appeared to be without substantial basis of controversy, (d) the order of presentation of evidence most conducive to an orderly proceeding, and (e) such other matters as might aid in the disposition of the proceeding.[6] Our order reconvening the hearing further directed the respondents to show cause why we should not forthwith issue an order requiring respondent, Engineers Public Service Company, "to divest itself of its interest in all subsidiaries, except: Virginia Electric and Power Company and Savannah Electric and Power Company; or Gulf States Utilities Company, El Paso Electric Company (Delaware), and Baton Rouge Bus Company, Inc."[7]

At the hearing on March 25th it became apparent that the dominant question at this stage of the proceeding was the proper interpretation of the geographic requirements of clause (B) of the proviso to § 11(b) (1) applicable to the "one or more additional integrated public-utility systems" retainable by a holding company in adddition to the "single integrated public-utility system" to which, in general, the operations of each holding company system are required to be limited.

Other questions dealt with in this opinion are: whether or not evidence bearing upon the constitutionality of the act is admissible in this proceeding; whether or not the respondent top holding company has the right to select the integrated public-utility system which it will retain as its "single" or "principal system";[8] whether or not it is necessary for us to make findings under § 11(b) (1) regarding the status of properties required to be divested; and whether or not the respondent may retain an investment interest in one or more of the properties which it may not continue to operate under § 11(b) (1).

Re United Gas Improv. Co. (1940) 7 SEC 341, 33 PUR(NS) 285; Re Electric Bond & Share Co. (1940) 7 SEC 391; Re Commonwealth & Southern Corp. 7 SEC 369. In connection with the last-named proceeding we have more fully explored the requirements of § 30 of the act, and our opinion therein, when issued, will state the reasons for our conclusion that no report under that section need be submitted to respondents in proceedings under § 11(b) (1).

[5] See Report in this matter dated March 5. 1941, as corrected April 15, 1941, and released to the public, 38 PUR(NS) 65.

[6] Statement of Tentative Conclusions of the Commission and Order Reconvening Hearing, Holding Company Act Release No. 2607, 37 PUR(NS) 263.

[7] *Id.* The order does not, of course, mean that Engineers will be able to retain all of the companies excepted therein, but only that determination of the issues regarding those companies should be deferred until a later date.

[8] The term "principal system," though not appearing in the act, has been commonly used with reference to the "single integrated public-utility system" permitted by § 11(b) (1) and appears in the Conference Report (H. R. Rep. No. 1903, 74th Cong. 1st Sess.) p. 71.

We heard oral argument on the foregoing matters, and briefs were exchanged and filed. A reply brief was filed by respondents. Our discussion of the issues will be subdivided under the following headings:

1. Evidence bearing on the constitutionality of the act
2. The Engineers holding company system
3. Geographical limitation on additional systems under § 11(b) (1) (B)
   (a) Contentions of respondents and of the staff
   (b) Congressional intent
   (c) Rationale under the statute
   (d) Application to the Engineers holding company system
4. Selection of principal system
5. Status of properties to be divested
6. Extent of divestment required
7. Nature of order to be entered herein, and instructions regarding the further conduct of hearings.

1. Evidence Bearing on the Constitutionality of the Act

[1, 2] Respondents have claimed in this proceeding that portions of the act are unconstitutional, and have proffered evidence of an economic nature in support of such claim.

While we recognize the principle that evidence of relevant and material facts offered to rebut the presumption of constitutionality may be received in an appropriate proceeding,[9] we think that under the pertinent decisions of the Supreme Court the type of evidence proffered here would not be admissible in judicial proceedings involving the constitutionality of the act. That question, however, is for the courts to determine and is not before us. But even if we assume, for the purpose of argument only and without conceding the point, that such evidence would be admissible in appropriate judicial proceedings, we still conclude that it would not be admissible in this proceeding before us.

It is well established that an administrative body such as this Commission has no authority to pass on the constitutionality of an act which it is called upon to administer.[10] We have heretofore declined to pass upon the validity of the Securities Exchange Act of 1934[11] or to entertain the argument, in a proceeding under the Public Utility Holding Company Act of 1935, that the business conducted by a particular holding company was of such character as to be beyond the regulatory powers of Congress.[12] This Commission having been specifically directed by Congress to enforce § 11 (b) (1), our lack of power to pass upon the validity of the act in this type of proceeding is particularly patent. Accordingly, we must proceed on the

[9] Polk Co. v. Glover (1938) 305 US 5, 83 L ed 6, 59 S Ct 15; Borden's Farm Products Co. v. Baldwin (1934) 293 US 194, 79 L ed 281, 55 S Ct 187; Borden's Farm Products Co. v. Ten Eyck (1935) 11 F Supp 599. See also Note, The Presentation of Facts Underlying the Constitutionality of Statutes (1936) 49 Harv. L. Rev. 631; Note, The Presumption of Constitutionality Reconsidered (1936) 36 Columbia L. Rev. 283.

[10] Panitz v. District of Columbia (1940) 72 App DC 131, 112 F(2d) 39; State ex rel. Atlantic Coast Line R. Co. v. Board of Equalizers (1922) 84 Fla 592, 94 So 681; Re East Ohio Gas Co. (1939) 28 PUR(NS) 129; Galveston Commercial Asso. v. Galveston H. & S. A. R. Co. (1927) 128 Inters Com Rep 349.

[11] Re Walston & Co. (1939) 5 SEC 112, 113; Re J. A. Sisto & Co. (1940) 7 SEC 647, 653.

[12] Re Houston Nat. Gas Corp. (1938) 3 SEC 664, 671, 25 PUR(NS) 1.

assumption that § 11(b) (1) is constitutional unless and until the courts declare otherwise.

There are a number of sound reasons for excluding evidence relating solely to the question of constitutionality. Since we must in any event refrain from passing upon the validity of the legislation, such evidence would not be relevant to any of the issues before us. Nor could the admission of evidence of this character possibly aid us to determine what action must be taken by respondents in order to satisfy the requirements of § 11(b) (1). On the contrary, its admission would encumber the record and unnecessarily complicate the task of sifting the evidence relating to the issues which are properly before us.

Moreover, an attack by the respondents upon the constitutionality of the act prior to any determination by us as to what action they must take under § 11(b) (1) would be premature. Prior to such a determination by us, the respondents cannot know to what extent and in what respects, if any, they will care to claim that our order violates any of their constitutional rights. It would seem, therefore, that respondents should await our order so that they can state specifically in what respects they claim that the act, as applied to them, violates constitutional immunities.

It may be urged that the evidence should be received so that it will be available for consideration by a court upon judicial review of one or more of our orders herein, in the event such review is sought. But the taking of such evidence would clearly be a waste of effort in the event judicial review were not sought, while if it were, the reviewing court could decide whether or not such evidence should be taken before this Commission, and if so, instruct us with respect to the proper limits of such evidence. Without instructions from the court, we should be in the anomalous position of having to determine for ourselves the propriety of such evidence as might be offered in relation to a question which we have no power to decide.

The case of Panitz v. District of Columbia[13] indicates the propriety of excluding such evidence in this proceeding. In that case, the petitioners were ordered to show cause, at a hearing to be held before the tax assessor of the District of Columbia, why their license to do business in the District should not be revoked for failure to pay the tax required by Title VI of the District of Columbia Revenue Act of 1937. Prior to the date set for the hearing the petitioners paid the tax, stating that payment was made under protest to avoid revocation of their license. Thereafter, pursuant to a statute which permits a taxpayer, who has paid any tax to the District involuntarily, to appeal from the imposition of such tax, the petitioners filed a petition for refund with the Board of Tax Appeals, alleging that Title VI of the Revenue Act was unconstitutional. The board dismissed the petition for want of jurisdiction on the ground that the petitioners did not pay the tax involuntarily, since they paid it without proceeding to the hearing that the assessor would have accorded them.

On appeal, the decision of the board was reversed. The court held that the assessor, like other administrative of-

[13] *Supra*, footnote 10.

ficials, could not pass on the constitutionality of the statute under which he operated and, therefore, could not hear the petitioners' objections to the tax. The court said:

"Since the assessor had no inherent authority to exempt from the tax on constitutional grounds, and no such power was given by the act or rules adopted thereunder, he was not in a position to hear the petitioners' objections to the tax assessed against them. Payment of the tax was therefore necessary to prevent revocation of their license and hence involuntary."[14]

Accordingly, the trial examiner will be instructed to exclude evidence bearing solely upon the constitutionality of the act.

Our action excluding such evidence here will be subject to judicial review in a proper proceeding, and if the reviewing court thinks we are in error it can, of course, reverse our determination and send the case back to us with instructions to receive the evidence. We think it clear that the respondents have adequately saved their rights on this point for the purposes of judicial review. Their counsel, however, has expressed a desire to make a more complete proffer of the evidence in question, and we have no objection to his doing so if he deems it necessary. The time when such proffer may be made will be left to the discretion of the trial examiner.

2. *The Engineers Holding Company System*

Engineers registered as a holding company under the act on February 21, 1938. It was incorporated in 1925 under the laws of Delaware, and has its executive office in New York city. Its subsidiaries are engaged in rendering electric service in fifteen states and gas service in three of those states, and in operating certain other businesses (including transportation, water, ice, steam, and telephone services) in the United States, Canada, and Mexico.[15]

The electric and gas utilities of the holding company system serve widely scattered sections of the country. Electric service is furnished by Virginia Electric and Power Company in Virginia and North Carolina; by Savannah Electric and Power Company in Georgia; by Gulf States Utilities Company in Louisiana and Texas; by El Paso Electric Company (Texas) in Texas and New Mexico; by the Western Public Service Company and its subsidiaries in Wyoming, South Dakota, Nebraska, Colorado, Kansas, Missouri, and Iowa; by Puget Sound Power & Light Company in Washington; and by the Key West Electric Company in Florida.[16] None of the electric utility properties of any of these subsidiaries is interconnected or economically capable of interconnection with those of any other such company (with the minor exception of two small subsidiaries of the Western Public Service Company which have properties interconnected with those of their parent company). Gas service is rendered in Virginia, Louisiana, and Washington by the subsidiaries

[14] 112 F(2d) at p. 42. See also State ex rel. Missouri S. R. Co. v. Public Service Commission (1914) 259 Mo 704, 727, 168 SW 1156, 1164.

[15] Appendix A of this opinion indicates the nature of the business of each system company, the state and date of its organization, and the state or states in which it operates.

[16] A map showing the approximate areas served with electric energy is annexed as Exhibit 1 to Appendix A.

which render electric services in those states.[17] The executive office of Engineers, in New York city, is separated from the areas served by its electric and gas utility subsidiaries by distances ranging from 375 miles to 3,100 miles.[18] The entire holding company system uses and bears the cost of service furnished by Engineers Public Service Company, Inc., a mutual service company organized and having its executive offices in New York.

Approximate figures showing the amounts at which Engineers carried its investments in subsidiaries as of December 31, 1940, were as follows:

Subsidiary	Bonds	Preferred Stock	Common Stock [2]	Total
Virginia El. & P. Co.			$21,734,000	$21,734,000
Gulf States Utilities Co.			19,914,000	19,914,000
Puget Sound P. & L. Co.			34,098,000	34,098,000
The Western P. S. Co.	$826,000	$1,471,000	5,001,000	7,298,000
Savannah El. & P. Co.		612,000	2,553,000	3,165,000
El Paso El. Co. (Del.)		402,000[1]	5,392,000	5,794,000
Baton Rouge Bus Co., Inc.			180,000	180,000
The Key West El. Co.		47,000	279,000	326,000
Total	$826,000	$2,532,000	$89,151,000	$92,509,000

[1] Includes $17,000 of El Paso El. Co. (Tex.).

[2] The amounts at which Engineers carried these stocks differ substantially from the amounts at which common stock and surplus accounts were recorded on the books of the respective subsidiary companies. For example, the common stock and surplus accounts of the three largest subsidiaries, per books of those subsidairies as of the same date, were approximately as follows:

Subsidiary	Common Stock and Surplus (Combined)
Virginia El. & P. Co.	$23,706,000
Gulf States Utilities Co.	14,769,000
Puget Sound P. & L. Co.	11,027,000

The gross revenues and net income per books of these subsidiaries for the year 1940, and their earnings per books applicable to shares of common stock held by Engineers, were approximately as shown below:

Subsidiary	Gross Revenues	Net Income	Earnings Applicable to Common Held by Engineers
Virginia El. & P. Co.	$20,992,000	$4,129,000	$2,947,000
Gulf States Utilities Co.	10,733,000	2,426,000	1,841,000
El Paso El. Co. (Del.)[1]	3,458,000	519,000	280,000
Savannah El. and P. Co.	2,472,000	340,000	130,000
Baton Rouge Bus Co., Inc.	275,000	35,000	35,000
Puget Sound P. & L. Co.[1]	16,754,000	1,924,000	[2]
The Western P. S. Co.[1]	2,178,000	184,000	[3]
The Key West El. Co.	234,000	46,000	[3]

[1] On a consolidated basis.

[2] The net income of Puget Sound Power & Light Company was insufficient to cover its annual preferred dividend requirements by about $209,000. Preferred dividend arrearages at the end of 1940 were $16,224,750.

[3] The net income of the Western Public Service Company and the Key West Electric Company exceeded the annual preferred dividend requirements of those companies by about $64,000 and $22,000, respectively. However, their preferred dividend arrearages were $89,587 and $154,949, respectively, at the end of 1940.

[17] A map showing the principal communities served by gas utility subsidiaries is annexed as Exhibit 2 to Appendix A.

[18] A map illustrating these distances is annexed as Exhibit 3 to Appendix A.

For the four years 1937 to 1940, inclusive, Engineers has received dividends on the common stocks of only four of its present subsidiaries, as follows:

	1937	1938	1939	1940
Virginia El. & P. Co.	$1,945,097	$1,945,097	$2,222,968	$2,222,968
Gulf States Utilities Co.	525,125 [1]	888,787 [1]	1,120,000	1,120,000
El Paso El. Co. (Del.)	.....	27,723	.....	.....
Baton Rouge Bus Co., Inc.	.....	4,000	25,000	25,000

[1] Includes Louisiana Steam Generating Corporation and Baton Rouge Electric Company, now merged into Gulf States Utilities Company. See Re Engineers Pub. Service Co. (1938) 3 SEC 580 and 751.

Engineers has received no income since 1930 on its large investment in Puget Sound Power & Light Company, which is substantially in arrears on its preferred dividends. Neither has it received any substantial amount in dividends from the Western Public Service Company for a number of years. At the argument before us counsel for respondents stated that at the present time Engineers is actively negotiating for the sale of the properties of the Puget Sound Company, and that the sale of the Western Company properties "is probably in the cards somewhat more indefinitely, perhaps, than the Puget Sound, but it is there, nevertheless."

The Virginia and Gulf States companies which, as we have seen, have yielded far greater earnings and dividends than any of the other subsidiaries of Engineers, operate both electric and gas utility systems and other services. Their capital accounts and earnings statements, however, are such as to leave no doubt of the predominance of their electric utility properties.[19]

From the foregoing, it is apparent that in choosing a principal utility system for retention by Engineers under § 11(b) (1), prime consideration from the standpoint of investment values, earnings and operations must be given to the electric systems of these two companies.

The Virginia Company's electric system serves an area of approximately 13,500 square miles, in southeastern Virginia and northeastern North Carolina. Its customers number about 170,000 in an area having a population of about 830,000. The principal cities served (and their approximate populations) are: Richmond (193,000), Norfolk (145,000), Portsmouth (51,000), Petersburg (31,000), Fredericksburg (10,000), Hopewell (9,000), Suffolk (11,000), and Williamsburg (4,000) in Virginia; and Roanoke Rapids, North Carolina (9,000). It also serves approximately 500 smaller communities. The electric system in Virginia is subject to regulation by the State Corporation Commission of Virginia and, in North Carolina, by the Utilities Commission of North Carolina.

The electric system of the Gulf States Company serves an area about 350 miles in length, covering over 27,000 square miles, in southern Louisiana and eastern Texas. Out of a population of approximately 405,000, the electric customers served in this area number about 92,000. The principal cities served (and their approximate

[19] Data supporting this conclusion are set out in Re Virginia Electric & Power Co. and Gulf States Utilities Co. (1941) 9 SEC —, Holding Company Act Release No. 2791.

populations) are: Beaumont (60,000), Port Arthur (46,000), Orange (9,500), Navasota (6,300), Huntsville (6,500), in Texas; Baton Rouge (38,000), Lake Charles (23,000), and Jennings (7,400), in Louisiana. In addition, about 240 smaller communities in these two states are served. The company's electric rates in municipalities in Texas are subject to the jurisdiction of the municipality, and the district court of the state of Texas has jurisdiction to declare any extortionate or unreasonable rate to be unlawful. The Louisiana Department of Public Service has jurisdiction over the rates and services of local public utility companies in that state.

The data introduced in evidence in this proceeding show that the electric utility system of Virginia Electric and Power Company and that of Gulf States Utilities Company (with minor exceptions noted in the footnote)[20] each consists, separately, of units of generating plants, transmission lines, and distributing facilities, whose utility assets are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coördinated system confined in its operations to a single area, in one or more states, not so large as to impair the advantages of localized management, efficient operation, and the effectiveness of regulation.

We find, therefore, and indeed there is no disagreement on this point, that the electric utility systems of the Virginia and Gulf States companies severally constitute integrated public utility systems within the meaning of § 2(a) (29) (A) of the act.[21] In view of this conclusion and in view of the size and importance of such systems in relation to the holding company system, it appears that either of them may be retained by Engineers as its principal system under § 11(b) (1). The question thus arises as to what system or systems, if any, can be retained by Engineers under § 11(b) (1) *in addition to* its principal system.

3. *Geographical Limitations on Additional Systems under § 11(b) (1) (B)*

[3] For a determination of what additional systems may be retained, we turn to § 11(b) (1) which, as already noted, primarily provides for the limitation of the operations of the holding company system to a single integrated public utility system:

"*Provided, however,* That the Commission shall permit a registered holding company to continue to control one or more additional integrated public-utility systems, if, after notice and opportunity for hearing, it finds that—

"(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

"(B) All of such additional systems are located in one state, or in ad-

[20] Two small properties at Alvin and Jasper, Texas, are not interconnected or economically capable of being interconnected at this time with the major electric properties of the Gulf States Company.

[21] Excluded from these systems, of course, are the gas utility and nonutility businesses of the two companies in question. Re Columbia Gas & E. Corp. (1941) 8 SEC —, 37 PUR (NS) 288, Holding Company Act Release No. 2477; Re United Gas Improv. Co. (1941) 8 SEC —, Holding Company Act Release No. 2692.

joining states, or in a contiguous foreign country; and

"(C) The continued combination of such systems under the control of such holding company is not so large (considering the state of the art and the area of region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation."

It will be noted that any additional system to be retained must meet *all* of the tests laid down in clauses (A), (B), and (C), so that if a particular system fails to meet any one of the tests of any one of such clauses, it cannot be retained. While clauses (A) and (C) involve the determination of facts which have not yet been fully presented to us, clause (B) imposes a purely geographical limitation and can be applied, once its meaning has been ascertained, simply by reference to a map of the holding company system.

Our determination of the meaning of clause (B) at this time is essential to our execution of the mandate of § 11 (b) (1) and will serve to delimit the issues remaining to be tried in this proceeding.

(a) *Contentions of respondents and of the staff.* The respondents have urged an interpretation of clause (B) which has been commonly designated as the "two-area" interpretation, pursuant to which additional integrated public utility systems could be retained by the holding company (as far as clause (B) alone is concerned) if all such systems were located in any one state of the United States *no matter how remote from the principal system,* or in states adjoining each other (or in a contiguous foreign country) but *likewise remote from the principal system.*

The Public Utilities Division, on the other hand, urges upon us the so-called "single-area" interpretation which, it says, is the only interpretation of clause (B) which is consistent with the congressional intent and the scheme of the act as a whole. Under that interpretation, any public utility systems retained by the holding company in addition to the principal system must all be located in a state *in which the principal system operates,* or in states adjoining (or in a foreign country contiguous to) such a state.

(b) *Congressional intent.* One of the primary purposes of the Congress in enacting the Holding Company Act was, as disclosed by § 1 of the act itself, to meet the problems and eliminate the evils that arise—

"when the *growth and extension* of holding companies bears no relation to economy of management and operation or the integration and *coördination of related operating properties,*[22]

". . . and it is hereby declared to be the policy of this title, in accordance with which policy all the provisions of this title shall be interpreted, to meet the problems and eliminate the evils as enumerated in this section, connected with public-utility holding companies which are engaged in interstate commerce or in activities which directly affect or burden interstate commerce; and for the purpose of effectuating such policy to compel the simplification of public-utility holding-company systems and the elimination therefrom of properties detrimental to the proper functioning of such systems, and

[22] Section 1(b) (4), emphasis supplied.

to provide as soon as practicable for the elimination of public-utility holding companies except as otherwise expressly provided in this title."[23]

As we have already pointed out, the primary provision of § 11 contemplates restricting the operations of each holding company system to a *single* integrated public utility system, and it is only *as an exception to that provision* that additional integrated public utility systems are permitted to be retained. Thus, the validity of the two-area interpretation of clause (B) must be looked upon with some doubt if it would result in nullifying the primary purpose of § 11(b) (1) and in making the exception vastly more important than the rule.[24] Yet, as will be shown further on in this opinion, that is what the two-area interpretation would do; for if additional systems may be retained subject only to the requirement that they be located in states *adjoining each other,* such additional systems may well dwarf the principal system in size and importance and might, in fact, stretch across the entire United States. Moreover, the result would not be conducive to the elimination of evils arising "when the growth and extension of holding companies bears no relation to . . . the . . . *coördination of related operating properties";* and such an interpretation would render clause (B) not only illogical but almost meaningless. As a consequence, that interpretation would greatly obscure the application of the interrelated and coördinate standards of clauses (A) and (C), which call for the findings that "Each of such additional systems cannot be operated as an *independent system* without the loss of substantial economies . . ." and that "The continued combination of such systems under the control of such holding company is not so large (considering . . . *the area or region affected*) as to impair the advantages of *localized management* . . ." (emphasis supplied).

Thus, an ambiguity appears on the face of the statute, particularly if (in accordance with a well-recognized theory of construction) each provision of the proviso is read in relation to the main topic of § 11(b) (1). On that theory of construction it is argued that relational words in the proviso (such as "additional," "independent," "adjoining," "contiguous") have reference to, and must be construed in relation to, the "single integrated public-utility system" contemplated in the primary provision of the section. So construed, clause (B) may logically be paraphrased substantially as follows:

[23] Section 1(c).

[24] It is well settled that the terms of an exception to the general policy of a statute must be strictly construed against the claimant of its benefit: ". . . it is insisted that the exception in the act should receive such a broad construction as would destroy the plain purpose which caused the act to be adopted. But to so treat the act would be in plain disregard of the elementary rule requiring that exceptions from a general policy which a law embodies should be strictly construed, that is, should be so interpreted as not to destroy the remedial processes intended to be accomplished by the legislation." Spokane & I. E. R. Co. v. United States (1916) 241 US 344, 350, 60 L ed 1037, 36 S Ct 668; Securities and Exchange Commission v. Sunbeam Gold Mines Co. (1938) 95 F(2d) 699, 701.

"The general rule of law is, that a proviso carves special exceptions only out of the body of the act; and those who would set up any such exception must establish it. . . ." Ryan v. Carter (1876) 93 US 78, 83, 23 L ed 807; quoted with approval in Schlemmer v. Buffalo, R. & P. R. Co. (1907) 205 US 1, 10, 51 L ed 681, 27 S Ct 407.

(B) All of such additional systems are located in a state *in which the single integrated public utility system operates,* or in states adjoining such a state, or in a foreign country contiguous thereto.

This, in substance, is the interpretation of clause (B) urged upon us by the Public Utilities Division. That it is also the interpretation intended by the legislative draftsmen of the provision is made clear by the Conference Report,[25] which summarizes the proviso as follows:

"The substitute [§ 11(b) (1)] . . . makes provision to meet the situation where a holding company can show a real economic need on the part of additional integrated systems for permitting the holding company *to keep these additional systems under localized management with a principal integrated system.* Under such circumstances the Commission is directed to permit the holding company to retain control of such additional systems, even though not physically integrated with the principal system, *provided all such integrated systems are located in the same state or states, or in adjoining states or a contiguous foreign country.*"[26]

Both houses of Congress adopted the Conference Report, which for the first time presented § 11 (b) (1) in its present form. Prior to that time the subject matter of § 11 had been the center of highly controversial debate, and had received different treatment at the hands of the Senate and the House.

The comparable provision in the bill as originally passed by the Senate[27] provided for the dissolution of the holding company relation "promptly after January 1, 1940," except that the Commission was to permit a registered holding company to continue to be a holding company in the first degree if such holding company obtained ". . . from the Federal Power Commission a certificate that the continuance of the holding company relation is necessary, under the applicable state or foreign law, for the operations of a geographically and economically integrated public utility system, serving an economic region in a single state or extending into two or more contiguous states or into a contiguous foreign country."[28]

The bill so passed was sent to the House and referred to the Committee on Interstate and Foreign Commerce,

[25] *Supra,* footnote 8. Respondents have suggested that clause (B) is not ambiguous on its face. As we have indicated in the text, we think a patent ambiguity has been shown; but even without such ambiguity, we consider it not only proper but necessary for us to look to the legislative history for the meaning intended by the Congress in order that the act may be administered consistently, as far as possible, with the true purpose and intent of its creators. "The meaning to be ascribed to an Act of Congress can only be derived from a considered weighing of every relevant aid to construction." See United States v. Dickerson (1940) 310 US 554, 562, 84 L ed 1356, 60 S Ct 1034; United States v. American Trucking Assos. (1940) 310 US 534, 84 L ed 1345, 35 PUR(NS) 486, 60 S Ct 1059.

[26] Conference Report at 71 (emphasis supplied).

[27] S. 2796 (74th Cong. 1st Sess.) passed by the Senate June 13, 1935.

[28] This provision, § 11(b) (3) of S. 2796, read:

"Promptly after January 1, 1940, to require each registereed holding company, to take such steps (either by divesting itself of control, securities, or other assets, or by reorganization of dissolution, or otherwise) as the Commission finds necessary or appropriate to make such company cease to be a holding company: Provided, however, that the Commission, upon such terms and conditions as it may find necessary or appropriate in the public interest or for the protection of investors or consumers, shall permit a registered holding company to continue to be a holding com-

which materially modified § 11 and other portions of the bill by a proposed substitute for Title I of S. 2796. Under the House substitute, the Commission was directed to order holding companies and their subsidiaries to limit their operations to a single integrated public utility system, except that if the Commission found that it was not necessary in the public interest so to limit the operations of such holding company system, the Commission should require such company to take only such action as the Commission found necessary to limit such operations to such number of integrated public utility systems as it found may be included in such holding company system consistently with the public interest.[29]

The House substitute § 11(b) was strongly criticized, the claim being made that it did not provide definite standards to guide the Commission in determining, in particular cases, whether or not it would be "necessary in the public interest" to permit the retention by a holding company of more than one integrated public utility system.[30] Indeed, the House provisions with respect to additional systems were so indefinite that there were

pany in the first degree if such company has obtained from the Federal Power Commission a certificate that the continuance of the holding-company relation is necessary, under the applicable state or foreign law, for the operations of a geographically and economically integrated public-utility system serving an economic region in a single state or extending into two or more contiguous states or into a contiguous foreign country."

[29] Section 11 of the House substitute bill provided:

"(b) It shall be the duty of the Commission, after notice and opportunity for hearing, by order to require each registered holding company and each subsidiary company thereof to take such action (either by divesting itself of any interest in or control over property or persons, or otherwise) as the Commission finds necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system; except that if the Commission finds that it is not necessary in the public interest to so limit the operations of such holding-company system, the order of the Commission shall require such company to take only such action (either by divesting itself of any interest in or control over persons or property, or otherwise) as the Commission finds necessary to limit such operations to such number of integrated public-utility systems as it finds may be included in such holding-company system consistently with the public interest. The Commission shall not, under the foregoing provisions of this subsection, require any company to divest itself of any interest in or control over (1) persons or property other than a public-utility company or the utility assets of a public-utility company unless the Commission finds that such interest or control may not be retained consistently with the public interest, or (2) any person doing business exclusively outside the United States, or property located outside the United States. The Commission shall determine the public interest, for the purposes of this subsection, in relation to the promotion of economy of management and operation of public-utility companies and efficiency and adequacy of service rendered by such companies, the facilitating of effective public regulation, the promotion of economies in the raising of capital, the undesirability of control of operating properties through disproportionately small investment, and such other factors as may affect the public interest as related to the operations of the holding-company system involved."

The final sentence of this section, outlining the standards for determining the public interest, was transferred in substance to § 1 of the bill prior to its passage by the House on July 2, 1935. See S. 2796 [Rep. No. 1318] June 24, 1935, Union Calendar No. 451 (74th Cong. 1st Sess.); 79 Cong. Rec. 10634–10637.

[30] One of the outspoken critics of this provision was Joseph P. Kennedy, then Chairman of this Commission. During the heated debate which occurred in the Senate following the passage of that bill by the House, Senator Wheeler read to the Senate a letter received from Kennedy pointing out the undesirability of giving to an administrative body such broad and undefined duties and powers. The letter objected to the House version of § 11(b) in that regard because (a) the administrative burden cast on this Commission of making such broad policy determinations would be too overwhelming to permit the achievement of satisfactory results, and (b) it was not wise policy to vest in any one group of men the "unfettered discretion to decide matters of such transcendent importance." 79 Cong. Rec. 10838 (July 9, 1935).

differences of opinion in the Committee on Interstate and Foreign Commerce itself on what geographical restrictions were contemplated.

For example, it was stated in the additional views of Representative Eicher (then a member of that Committee and now Chairman of this Commission) that the House amendment "thoroughly emasculated" § 11 of the Senate bill which, he said, "provided for the rearrangement of operating companies controlled by giant holding companies into rational contiguous systems of moderate size . . . to break down their concentration of economic power, to make them amenable to successful regulation in smaller matters, and to promote local operating efficiency through locally interested management."[31]

On the other hand, Representative Rayburn observed that "§ 11(b) *in both the Senate bill and the House amendment* contemplates the reëstablishment of the advantages of localized management in the operating utility industry and the consequently necessary breakdown of large holding companies over geographically scattered operating utility companies."[32] He based this interpretation of the House amendment on its primary requirement that each holding company would have to limit its control over operating utility companies to one integrated system, with exceptions—which he apparently regarded as comparatively minor—(a) in respect of a holding company whose interests are essentially intrastate or essentially foreign, and (b) where the Commission "finds that more than one integrated system may be included in a holding company system 'consistently with the public interest.'" He went on to point out that the compromise measure (finally enacted) met the House desire for a flexibility not present in the Senate bill—

". . . by the statement of additional definite and concrete circumstances under which *exception should be made to the form of one integrated system.* Definite exceptions not only provide a satisfactory constitutional standard but also an effective standard for the guidance of both the Securities and Exchange Commission and those holding companies which wish voluntarily to comply with congressional policy."[33]

The foregoing furnishes sufficient evidence, we think, to establish that the (A), (B), and (C) standards finally enacted into law were not intended to perpetuate holding company control over operating companies in widely scattered *areas,* but were merely intended to relax the Senate's absolute prohibition against the retention of any properties *not integrated with the principal system,*[34] and to provide definite and concrete standards in aid of both enforcement and voluntary compliance.

But if any more proof be needed, it is found in the next succeeding para-

[31] H. R. Rep. No. 1318 on S. 2796 (74th Cong. 1st Sess.) p. 44.

[32] Conference Report, at p. 70 (emphasis supplied). The Committee of Conference included Representatives Rayburn, Huddleston and Lea, and Senators Wheeler, Barkley, Brown and Shipstead. Representative Rayburn and Senator Wheeler were sponsors of the bill in their respective Houses and were chairmen of their respective committees. They were, of course, the leading conferees.

[33] *Ibid.* (emphasis supplied).

[34] There is, of course, a great difference between geographical remoteness and a mere lack of "integration" as that term is defined in § 2(a) (29).

graph of the Conference Report (quoted *ante*) which speaks of the provision of § 11(b) (1) permitting the holding company "to keep these additional systems *under localized management with a principal integrated system . . . even though not physically integrated with the principal system, provided all such integrated systems are located in the same state or states, or in adjoining states or a contiguous foreign country.*"[35]

It is significant that no member of either the House or the Senate suggested that the compromise provision would permit a holding company to control public utility companies operating in two or more widely separated areas. On the contrary, the more active opponents of the Senate proposal, who had supported the House substitute bill, also voted against the compromise measure. They regarded the proviso to the present § 11(b) (1) as an inconsequential exception to the strict requirement of the Senate bill. For example:

Mr. Huddleston:

"The Rayburn proposal is merely the 'death sentence' in a different form of words . . . to the uninformed, compliance may seem a possibility, but to those with a knowledge of industry they are a mere gesture . . . in short, the pretense of permission to hold more than one system adds nothing to the proposal . . .

"The proposed § 11 . . . requires the dissolution of all holding companies other than those of first and second degree, *and in practical effect restricts each of them to a single utility system.* Under it the dissolution or reorganization of practically all the important companies will be forced."[36]

Mr. Cooper of Ohio:

"The second condition for more than one utility system exists 'if all of such additional systems are located in one state or in adjoining states.'

"That provision is of little importance since, as stated, most of the utility holding companies have acquired their properties in different territories in order to diversify the risk . . .

"I submit to you that the exception granted on the basis of these three conditions does not materially modify the limitation to one integrated public utility system, nor will it in any way prevent the dismemberment of all utility holding companies."[37]

Representative Mott in speaking for the Conference Report asserted that "the compromise section . . . is even more liberal than § 11 of the House bill which was adopted in this body on July 2nd . . ."[38] —meaning, without doubt, that it was more liberal to the holding companies, but in respects which had nothing to do with the geographical requirements of clause (B).[39]

[35] Conference Report, at p. 71 (emphasis supplied). See also Representative Rayburn's speech on the floor of the House explaining the compromise version, 79 Cong. Rec. 14164, August 22, 1935.

[36] 79 Cong. Rec. 14167, August 22, 1935 (emphasis supplied). It should be noted that Representative Huddleston was a manager on the part of the House at the Committee of Conference.

[37] *Id.* at 14166.

[38] *Id.* at 14170.

[39] There is no reference to geographical limitations in his entire speech (Id. at 14168–14170), which was chiefly concerned with the provisions permitting the continued existence of holding companies in the second degree, and the provisions for judicial review of the Commission's orders.

Representative O'Connor, who also voted for the compromise, remarked:

"Now, Mr. Speaker, this proposal is a distinct victory over the 'death sentence,' as it was contained in the Senate bill. This proposal does permit holding companies which are *really integrated units and are natural units to operate in a real concentrated territory without spreading their talons all over the country,* with an Insull in Chicago picking up a power plant in Florida or a Hopson from 61 Broadway, New York city, operating a little plant in Oklahoma at the expense of the consumers and investors."[40]

The House agreed to the Conference Report by a vote of 222 to 112.[41] On the same day the report was submitted to the Senate by Senator Wheeler, who had been the leading manager on the part of that body at the Committee of Conference, and it was speedily agreed to without a record vote.[42] Shortly thereafter Senator Wheeler, in an address to the Senate, gave his interpretation of the action taken by the Committee of Conference and was unchallenged by any Senator. The pertinent portions of his statement were as follows:

"Section 11 in the Senate bill, as you will recall, required that a holding company limit its operations to one integrated operating system and to businesses reasonably incidental thereto. The House bill also purported to limit the operations of a holding company to one integrated system, but permitted an exception which allowed the Commission to permit a holding company to control as many systems as it deemed consistent with the public interest. The House bill accordingly thrusts the entire burden of breaking up the giant holding companies upon the Securities Commission without any effective or constitutional standard to guide them in their task and with no concrete congressional sanction to fall back upon to resist the pressures that would inevitably be brought against the Commission to prevent their taking any effective action. *Since both bills accepted the proposition that a holding company should normally be limited to one integrated system,* my colleagues and I conceived it to be our task to find what concrete exceptions, if any, could be made to this rule that would satisfy the demand of the House for some greater flexibility. After considerable discussion *the Senate conferees concluded that the furthest concession they could make would be to permit the Commission to allow a holding company to control more than one integrated system if the additional systems were in the same region as the principal system and were so small that they were incapable of independent economical operation and if the combination of these small systems under one holding company would not create a corporation so large as to impair the advantages of localized management and the effectiveness of regulation.* I consider this a very generous concession upon the Senate. If properly administered, however, this concession should not defeat the purpose of the President to break up the giant holding companies with their undue concentration of economic power and with their *absentee management by remote control.* . . .

[40] *Id.* at 14168 (emphasis supplied).
[41] 79 Cong. Rec. 14626–7, August 24, 1935.
[42] *Id.* at 14473.

"The Senate had to yield on the provision that all holding companies should cease to be holding companies after 1940 unless affirmatively found to be necessary to the operations of an integrated system under the applicable state law. *The provisions retained in the bill, however, which require as a general rule the limitation of the holding company to one integrated system and which require that the corporate structure of the holding company be not unnecessarily complicated, should serve to break up all of the unnecessarily large and complicated holding company empires.*"[43]

While, as above noted, Senator Wheeler's statement was not made to the Senate before it voted and may not strictly be considered part of the legislative history of the act, it was a contemporaneous interpretation by one who was certainly in a position to speak with authority, was made before the act went to the President for signature, was delivered unchallenged before the Senate, and is a matter of public record. Since it merely corroborates the interpretation contained in the Conference Report its significance may, perhaps, be regarded as only cumulative; but as a "relevant aid to construction"[44] it deserves some consideration. More significant, perhaps, is the fact that the respondents have cited no persuasive authority to the contrary in the debates or elsewhere, though they have obviously made a thorough investigation of the legislative history.[45]

In summary, our conclusions in the light of the legislative history of the act are: first, that the question of policy with respect to the geographical limitation of holding company system operations, which was the subject of extensive study by committees of the Congress and of prolonged debate in both houses, was finally determined by the Congress itself and was certainly not intended to be left open for reëxamination and redetermination by us; and second, that such policy as finally determined by the Congress and expressed in the act is that this Commission, by appropriate administrative action, shall require each registered holding company (and each of its subsidiaries) to limit the public utility operations of its holding company system to (a) a single integrated public utility system and (b) such additional integrated public utility systems as meet the standards of clauses (A) and (C) *and* are located in a state in which such single system operates, or in states adjoining such a state, or in a foreign country contiguous thereto.

(c) *Rationale under the statute.* If our conclusion made in the light of the legislative history is correct, per-

[43] *Id.* at 14479 (emphasis supplied).

[44] See United States v. Dickerson, *supra*, footnote 25.

[45] In their briefs on this point, the respondents have cited the testimony of witnesses before the legislative committees, which we have not found of great assistance because the testimony was representative of many divergent views. They have also quoted from the legislative debates and committee reports, but the quotations are either ambiguous or have reference to a multi-area interpretation of the House substitute bill which we recognize was shared by many Congressmen. In at least one respect their argument seems to turn against them, for in referring to Representative Cooper's remarks they point out that "he urged that the compromise be rejected and that § 11 of the House bill be passed on the ground that the House bill did *not* require that those three conditions (A, B, C) be met for the *retention of systems geographically diversified.*" (Reply Brief, p. 15, emphasis in original.)

haps no more need be said on the point. However, we have given consideration to the manner in which the two-area and one-area interpretations would work in practical application, and believe that a brief analysis along those lines will throw additional light upon the meaning to be ascribed to clause (B) of § 11(b) (1).

For example, we have seen that Virginia Electric and Power Company has one integrated electric utility system in Virginia and North Carolina, and that Gulf States Utilities Company has such a system in Louisiana and Texas. Under the two-area interpretation of clause (B), Engineers could, as far as clause (B) alone is concerned, keep the former as its principal system and the latter as an additional system, but if it did that, it could not retain any additional system located in Virginia or in North Carolina or in their adjoining states, in proximity to the principal system; yet on the same basis it *could* keep any number of additional systems which happened to be located in Texas or Louisiana or in any states adjoining them and adjoining each other. If we assume for the purpose of argument that the Western Public Service Company's electric properties constitute a number of integrated systems, and that the electric properties of El Paso Electric Company are an integrated system, then on this basis the systems retainable under the two-area interpretation of clause (B), in addition to the principal system of Virginia, would be: the Gulf States system in Texas and Louisiana; the El Paso system in Texas and New Mexico; and the Western systems located in Colorado, Wyoming, Nebraska, South Dakota, Kansas, Iowa, and Missouri.[46]

Assuming further that the gas utility systems in Virginia, Louisiana, and Washington each constitutes an integrated system, Engineers could also under that interpretation of clause (B) retain the gas system in Louisiana, but could not retain the one nearest the principal system in Virginia or those in the state of Washington.[47] On the other hand, it will be noted that Missouri adjoins Kentucky and Kentucky adjoins Virginia, so that if Engineers had an integrated public utility system in Kentucky it could, under the two-area interpretation, retain that as one of the additional systems and could then, presumably, retain the gas system in Virginia as well—not by reason of its proximity to the principal system but because of a fortuitous scattering of unrelated additional systems found in a chain of states adjoining each other. By no stretch of the imagination can we conceive that clause (B) was intended to permit any such result, and we must at once reject the proposition that the words "adjoining states" as used in that clause means states adjoining each other.[48]

[46] See map annexed as Exhibit 1 of Appendix A.

[47] See map annexed as Exhibit 2 of Appendix A.

[48] Cf. Holy Trinity Church v. United States (1892) 143 US 457, 459, 36 L ed 226, 12 S Ct 511, where it was said: "It is a familiar rule, that a thing may be within the letter of the statute and yet not within the statute, *because not within its spirit, nor within the intention of its makers.* This has been often asserted, and the reports are full of cases illustrating its application. This is not the substitution of the will of the judge for that of the legislator, for frequently words of general meaning are used in a statute, words broad enough to include an act in question, *and yet a consideration of the whole legislation, or of the circumstances surrounding its enactment, or of the absurd results which follow from giv-*

But the respondents have suggested another possible meaning for these words consistent with the two-area theory, and that is that if "adjoining" must be related to some antecedent contained in § 11(b) (1), then that antecedent must be the "one State" referred to in clause (B)—without, however, in any way relating such "one State" to the location of the principal system. On that basis all the additional systems, whether near to or distant from the principal system, must be located in one state or in states adjoining such state. This suggestion is capable of producing the following result:

Assume a holding company having its principal system located in Virginia and two additional systems, one located in Maryland and the other in North Carolina. A glance at the map will suggest the possibility that all such systems might serve the same compact geographic and economic area or region; yet, despite this, under the foregoing interpretation of "adjoining" in clause (B), the act would forbid the holding company to retain both additional systems because they are not both located in one state and because Maryland does not adjoin North Carolina. On the other hand, the holding company *could* on the same basis retain any number of additional systems located in California, for example, or scattered among California and its adjoining states, Oregon, Nevada, and Arizona.

Respondents contend that both of these two-area interpretations are supported by the literal language of clause (B), while the single-area interpretation is not. We disagree, believing that the clause is ambiguous upon its face. But even if it be conceded that the respondents are right in this respect, both of the two-area interpretations must nevertheless be rejected unless we are to become myopic to all but the literal words of a single dependent clause. In the words of the Supreme Court, "Literal interpretation of statutes at the expense of the reason of the law and producing absurd consequences or flagrant injustice has frequently been condemned. . . . We are not forced by the letter to do violence to the spirit and purpose of the statute."[49] And more recently:

"There is, of course, no more persuasive evidence of the purpose of a statute than the words by which the legislature undertook to give expression to its wishes. Often these words are sufficient in and of themselves to determine the purpose of the legislation. In such cases we have followed their plain meaning. When that meaning has led to absurd or futile results, however, this court had looked beyond the words to the purpose of the act. Frequently, however, even when the plain meaning did not produce absurd results but merely an unreasonable one 'plainly at variance with the policy of the legislation as a whole' this court has followed that purpose, rather than the literal words."[50]

Turning to the one-area interpreta-

ing such broad meaning to the words, makes it unreasonable to believe that the legislator intended to include the particular act." (Emphasis supplied.)

[49] Hughes, C. J., in Sorrells v. United States (1932) 287 US 435, 446, 448, 77 L ed 413, 53 S Ct 210, 86 ALR 249.

[50] Reed, J., in United States v. American Trucking Assos. (1940) 310 US 534, 543, 84 L ed 1345, 35 PUR(NS) 486, 490, 60 S Ct 1059.

tion of clause (B), we find that no absurd result follows although, as suggested by the respondents, the end result does not necessarily eliminate the possibility that additional systems retainable under clause (B) alone may be geographically remote from the principal system. For example, if Engineers designates the Virginia-North Carolina electric system as its principal system, then under the one-area interpretation of clause (B) it could retain as additional systems, provided the other standards of the statute are met, both the gas utility system in Virginia[51] and the electric utility system in Savannah, Georgia. This is because the former would be in one of the same states with the principal system, and the latter would be in a state adjoining one of such states; and while Savannah is probably not within the same "area or region" as the assumed principal system, and its retention by Engineers might be repugnant to the standards of clause (A) or clause (C), the result reached by this interpretation is neither absurd nor out of line with the intended function of clause (B) which (as we read the act as a whole and the legislative intent otherwise expressed) is to delimit the maximum boundary of operations of a combination of integrated systems.

Reference has already been made to the recitations in § 1(b) (4), 15 US CA § 79a (b) (4), of evils that arise "when the growth and extension of holding companies bears no relation of economy of management and operation or the integration and coördination of related operating properties," and the mandate of § 1(c) that "all the provisions of this title shall be interpreted, to meet the problems and eliminate the evils as enumerated in this section . . . and for the purpose of effectuating such policy to compel the simplification of public-utility holding-company systems and the elimination therefrom of properties detrimental to the proper functioning of such systems, and to provide as soon as practicable for the elimination of public-utility holding companies except as otherwise expressly provided in this title."

We concur in the suggested conclusion that "a geographic limitation in furtherance of the integration of holding company systems that would allow the retention of systems in two distant areas, and yet prohibit the retention of two additional systems adjoining the principal system, cannot be found to be based on any rational purpose or policy consistent within itself."[52] An interpretation that would have that result is, we think, entirely contrary to the legislative concept of limiting holding company control to related operating properties in a restricted territory, and inconsistent with the purpose of fostering effective regulation and localized management as contemplated by the act.

As we have already pointed out, clauses (A), (B), and (C) are part of a proviso carving an exception out of the primary requirement of § 11 (b) (1)—the requirement that each holding company limit its operations to a *single integrated public utility*

[51] We do not undertake to decide at this time whether or not an integrated gas utility system may be retained in combination with an integrated electric utility system serving the same area. That question raises problems that are not now before us.

[52] Public Utilities Division brief, p. 14.

system. The specific definition of the term "integrated public-utility system" set out in § 2(a)(29) is a restrictive one, requiring that such a system, in the case of electric utility companies, consist of—

"one or more units of generating plants and/or transmission lines and/or distributing facilities, whose utility assets, whether owned by one or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coördinated system confined in its operations to a single area or region, in one or more states, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation."

It is entirely consistent with the purposes of the act that two or more systems serving a single area or region, each integrated in and of itself but the aggregate failing to meet all of the foregoing conditions, might be retained by a holding company under the (A), (B), and (C) standards of § 11(b)(1). The one-area interpretation of clause (B) does not by any means, as suggested by respondents, render the proviso nugatory; and in fact, the legislative history already explored indicates clearly that the proviso was intended to permit the retention of additional integrated *systems* and not the continued operation of systems in additional and remote areas.[53]

(d) *Application to the Engineers holding company system.* Having determined that the two-area interpretation of clause (B) must be rejected as wholly illogical and inconsistent with the purposes of the act, and that the one-area interpretation accords with the legislative intent and the provisions of the act as a whole, our duty under § 11(b)(1) with respect to the system before us is clear.

Whether the principal system of Engineers be the electric system of Virginia Electric and Power Company or that of Gulf States Utilities Company—and it is not disputed by respondents that it will be one or the other of those two systems—clause (B) of § 11(b)(1) prohibits the retention by Engineers of the public utility systems of Puget Sound Power & Light Company, the Western Public Service Company and its subsidiaries, and the Key West Electric Company.[54]

The question whether Engineers may or may not retain its other public utility systems and nonutility businesses will be reserved for later determination. If the electric utility system of Virginia Electric and Power Company were designated as the principal system, then under clause (B) Engineers could not retain the public utility systems of Gulf States Utilities Company or of El Paso Electric Company (Delaware) or its subsidiaries; and the question whether Engineers

[53] Cf. the conditions of clause (C) of § 11(b)(1) that "The continued *combination of such systems* [*i. e.*, the principal and additional systems together] under the control of such holding company is not so large (considering the state of the art and the *area or region affected*) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation." (Emphasis supplied.)

[54] Whether or not Engineers may retain *any* interest in these companies is another question. See § 6 of this opinion, *infra*.

could retain the electric utility system of Savanah Electric & Power Company, the gas utility system in Virginia, Baton Rouge Bus Company, Inc., or any interest in the nonutility businesses operated by the Virginia and Savanah companies (or any combination of the foregoing) would depend on statutory provisions other than clause (B).[55]

On the other hand, if the integrated electric utility system of Gulf States Utilities Company were designated as the principal system, then under clause (B) Engineers could not retain the public utility systems of Virginia Electric and Power Company or Savannah Electric & Power Company; and the question whether Engineers could retain the electric utility systems in Jasper and Alvin, Texas, or that of El Paso Electric Company (Delaware) or its subsidiaries, the gas utility system in Louisiana, Baton Rouge Bus Company, Inc., or any interest in the nonutility businesses of the Gulf States and El Paso companies (or any combination of the foregoing) would likewise depend on statutory provisions other than clause (B).

4. *Selection of Principal System*

[4, 5] As will be seen from the preceding section of this opinion, the selection of a principal system for Engineers is a condition precedent to important definitive action necessary for full compliance with § 11(b)(1). The respondents have urged that Engineers itself has the right to make such selection for the purposes of this proceeding.

The act does not expressly state whether the selection of the "single integrated public utility system" retainable as the principal system is for the holding company to make solely on the basis of its own wishes, or for us to make on the basis of evidence and with due regard to the public interest and the protection of investors or consumers. An intermediate position might be that the holding company may make the selection subject to our approval or disapproval based upon evidence and judged in the light of the foregoing standards. However, we do not think it necessary to decide these questions under the circumstances presently before us.

As we have stated above, a choice of either the Virginia or the Gulf States electric system would be acceptable here. Assuming, for the purpose of argument, that it is the right of the holding company to make the selection in question, we think it clear that such right carries with it the duty to make the selection as promptly as possible. The mandate of § 11(b)(1) is that compliance with its provisions be had "as soon as practicable after January 1, 1938."

It appears that the only obstacle now faced by Engineers in making the selection is this: that if its claimed right of selection is to have any substance, Engineers must be placed in a position to make an intelligent choice between the Virginia and Gulf States electric systems. This can only be done, the respondents argue, after we have made a determination as to what, if any, additional systems and incidental businesses could be retained in

[55] Issues other than those arising under clause (B) are being heard before a trial examiner but have not yet been presented to us for determination.

combination with the alternative principal systems.

We are of the opinion that respondents in a § 11(b)(1) proceeding have no right, under the act or otherwise, to insist upon our making determinations of this character before the holding company selects its principal system. Our function under the section is to determine whether or not any "additional" integrated systems may be retained under the standards of clauses (A), (B), and (C) in conjunction with a "single" integrated system. Strictly speaking, of course, there can be no determination permitting the retention of an "additional" system until after the "single" system has been selected, and any *affirmative* findings we may make prior to the selection will necessarily be merely advisory in character.[56] Nevertheless, the choice in this case between the Virginia and Gulf States electric systems is a close one, and we have concluded that it is within our discretion to make advisory findings of the type requested, and that it would be reasonable to do so in this instance. We have accordingly instructed the trial examiner and counsel in the case to proceed to trial upon the issues of fact, more fully outlined in the last section of this opinion, pertinent to the selection of the principal system.

We think it appropriate to add here that at some point in the proceeding, before a final disposition can be made, it will be necessary to determine what action is necessary to limit the operations of the business conducted by Engineers Public Service Co., Inc., a mutual service company indirectly controlled by Engineers, in a manner that will meet the requirements of § 13 of the act after the divestment of properties under § 11(b)(1) shall have been effected. It seems to us, tentatively, that the operations of the service company should not only be made to conform to the standards of § 13 but should also be limited to a business which will be reasonably incidental or economically necessary or appropriate to the operations of whichever principal system is selected. At the present time the service company is organized to serve the entire holding company system, including the nonretainable utility systems and other businesses. The issues as to it will be set down for trial either in this proceeding or in a proceeding under § 13 at a time to be announced later.

5. *Status of Properties to Be Divested*

[6] Respondents have urged that the entry of an order requiring the divestment of the Puget Sound, Western, and Key West properties, without a final determination as to the status of such properties under §§ 2(a)(29) and 11(b)(1), would deprive Engineers of the opportunity to secure a fair and reasonable price for such properties and would, therefore, be improper. The argument is that Engineers would have difficulty in disposing of the properties subject to a divestment order unless possible purchasers are informed: whether utility assets in which such persons may be interested constitute one or more integrated public utility systems; whether the principal system be that of Virginia or of Gulf States, and are not based upon alternative hypotheses.

[56] It is otherwise with *negative* findings, such as those made herein with respect to the Puget Sound, Western, and Key West systems. Those findings are equally determinative

er nonutility businesses meet the standards of the incidental businesses clauses; whether, if such persons acquire a particular set of properties, such transaction would bring them within the jurisdiction of the act; and whether, if it does bring them within the jurisdiction of the act, the properties can be retained as purchased or whether they must in some part be cast off because such properties themselves fail to meet the standards of § 11. The substance of the argument is that unless the Commission makes such advisory findings as to all the properties which are subject to the divestment order, Engineers will be prejudiced in its attempts to dispose of these properties because of the unsolved problems facing possible purchasers.

We think it is both unnecessary and inappropriate for us to determine the status of the utility assets or nonutility businesses of the Puget Sound and Key West companies. Neither of these companies is a holding company within the meaning of the act, and neither would be subject to our jurisdiction if divorced from holding company control. Advisory findings as to them would be wholly valueless to any potential purchaser not subject to the act, and would be of little, if any, value to a potential purchaser subject thereto.

For example, if we were to determine in this proceeding that certain utility assets of the Puget Sound Company constitute an integrated electric or gas utility system under § 2 (a)(29), the determination would clearly be of no value to any potential purchaser not subject to the act as a holding company or as a subsidiary or affiliate of a holding company. On the other hand, a potential purchaser subject to the act must file an application under § 10 for our approval in advance of the proposed purchase, and in that proceeding the questions arising under both § 2(a)(29) and § 11 could be fully determined.[57] They cannot be fully determined in this proceeding since we do not know the identity of the purchaser, or exactly what properties will be involved, or how such properties will relate to any utility systems already owned by such purchaser.

With respect to the status of nonutility businesses, any determination we might make in this proceeding would necessarily be subject to revision if such businesses were acquired by another person subject to the act; for a business that is reasonably incidental or economically necessary or appropriate to the operations of one public utility system or combination of systems would not necessarily be so in respect of another such system or combination. Again, the question could be determined under § 10 on

[57] Section 10(c), 15 USCA § 79j (c), provides that we must not approve an acquisition of securities or utility assets, or of any other interest, which "is detrimental to the carrying out of the provisions of § 11," and that we must not approve the acquisition of securities or utility assets of a public utility or holding company unless we find that "such acquisition will serve the public interest by tending towards the economical and efficient development of an integrated public-utility system." It is true that in the past we have sometimes made these findings without prejudice to our right to determine later, in a § 11 proceeding, whether or not the securities, assets, or interests so acquired could lawfully be retained by the person acquiring them; but that was done with the understanding and for the accommodation of the purchasers, who were willing to make the acquisitions on that basis.

the application of a potential purchaser subject to the act, and would be of no consequence to one not subject thereto.

Moreover, any determination of status which we might make in this proceeding as to one or more units might well become obsolete by virtue of the sale or other disposition of such units themselves or other units to which they are related—in which case the question of status at the time of sale or other disposition would have to be redetermined.

It may be suggested that prospective purchasers who are not subject to the act, but who would become subject thereto by reason of their purchase, do not, under the requirements of § 9 (a), have the duty or the right to apply to the Commission under § 10 for the approval of an acquisition of utility assets or utility securities, and that such persons may be prejudiced if the status of the properties which they may want to acquire from Engineers is not determined in this proceeding. It will be noted that any person proposing to acquire securities, the ownership of which would render such person a holding company, may under § 5(a), 15 USCA § 79e, register with the Commission as a holding company by filing a notification of registration. Such person would thereby become a registered holding company even before committing himself to a proposed acquisition, and by virtue of the mere notification of registration the Commission would have jurisdiction under § 10 to entertain an application for the acquisition of utility securities by such person. Under such application, as already indicated, the questions presented under § 10(c) would resolve the impact of § 11. If the application were not approved, or if for any other reason the transaction were not consummated, the prospective purchaser would be entitled to withdraw from registration under § 5(d).

While we are of the opinion that any potential purchaser of the properties involved would be in a position, before commitment, to be fully advised as to the status of such properties if such questions arise under §§ 2 (a)(29) or 11(b)(1), it should be observed that there is no substantial probability that such questions will arise as to these properties. We are advised by counsel for respondents that the properties of the Puget Sound Company are the subject of negotiations for sale to public authorities, and that the negotiations are well under way. The Key West system is small, and no nonutility businesses are involved. We conclude that questions of status under §§ 2(a)(29) and 11 (b)(1) of the assets and businesses of the Puget Sound and Key West companies should not be tried or determined in this proceeding.

[7] The Western Public Service Company is in a different category. It is itself a registered holding company, as to which our duty under § 11 (b)(1) is to require by order that it take such action as we may find necessary to limit its operations to a single integrated public utility system and such additional systems and such businesses as are permitted by the act. If it remains a registered holding company the issues with respect to it must be tried and determined either in this or in a separate proceeding under § 11

(b)(1), and that will be done as soon as practicable.

We do not think we are obliged to determine these issues before ordering Engineers to divest itself of its interest in the Western Company properties, or that Engineers is entitled as of right to have us do so. Despite any order of divestment we might enter here, the Western Company will remain a respondent in the § 11(b)(1) proceeding, and there is nothing in the act which would prevent the issues with respect to it being tried after the entry of such an order.

Other considerations, however, lead us to conclude that an exception should be made in this case. We are this day issuing a notice of and order for hearing in respect of Western under § 11(b)(2) of the act, such hearing to be consolidated with the hearing under § 11(b)(1) in respect of that company. The proceeding under § 11(b)(2) looks toward a recapitalization of Western and redistribution of voting power among its security holders, and may have a substantial effect upon the action which it will be necessary for Engineers to take under a divestment order. The issues so raised being dominant, in our opinion, over the issues arising under § 11(b)(1), we shall, purely as a matter of discretion, withhold our order of divestment for the time being, and direct that evidence be taken as soon as practicable on the issues in the consolidated hearing.

6. *Extent of Divestment Required*

[8] Respondents argue that an order of divestment herein should go no farther than to require Engineers to divest itself of *control* of the Puget Sound, Western, and Key West companies and should not, as proposed in our order for hearing, require it to divest itself of *all* its interest therein. The argument is that even though § 11(b)(1) prohibits Engineers from *operating or controlling* the *utility systems* and other businesses of those companies, its provisions allow Engineers to retain an *investment interest* therein. This proposition, in our opinion, is unsound.

The pertinent provisions of § 11(b)(1) read as follows:

"(b) It shall be the duty of the Commission, as soon as practicable after January 1, 1938:

"(1) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such action as the Commission shall find necessary to limit the operations of the holding company system of which such company is a part to a single integrated public utility system, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public utility system. . . .

. . . . . .

"The Commission may permit as reasonably incidental, or economically necessary or appropriate to the operations of one or more integrated public utility systems the retention of an interest in any business (other than the business of a public utility company as such) which the Commission shall find necessary or appropriate in the public interest or for the protection of investors or consumers and not detrimental to the proper functioning of such system or systems."

We recently had occasion to examine the above provisions in connection with a problem raised in Re United Gas Improv. Co.[58] where the company had investment interests in certain utility and nonutility businesses and claimed a right under § 11(b)(1) to retain such interests. The respondents in the present proceeding have made the request that we consider the arguments in the United Gas Improvement Company briefs as being made also in this proceeding. We have acceded to this request although the problem presented here is not the same as that in the United Gas Improvement Case. Investment interests in nonaffiliated utilities, such as those discussed in the United Gas Improvement Case, are not involved at this stage of the present proceeding; we are here dealing with utility companies which are admittedly controlled by Engineers and are part of its holding company system.

In an attempt to make the problem here similar to that in the United Gas Improvement Case, respondents argue that if Engineers reduces its holdings of voting securities in the Puget Sound, Western and Key West companies to an amount representing less than 10 per cent of the voting power therein, either the three companies themselves or Engineers may then file applications under § 2(a)(8) of the act for orders by us declaring that such companies are not subsidiary public utility companies under the act,[59] and that should such declaratory orders be issued, Engineers will have satisfied the provisions of § 11(b)(1) as far as those three companies are concerned. Respondents imply that if we followed any other procedure we should be depriving them of substantive rights under the statute. As we have stated, however, the problem here is clearly distinct from that in the United Gas Improvement Case, and we fail to see how these respondents could have any substantive right under the statute to receive declaratory orders under § 2(a)(8).

First, it is apparent that the retention of an investment interest in a company which has been dominated, controlled and serviced by the owner for a number of years (as in the present case) is substantially different from the ownership over a long period of years of an investment interest in a nonaffiliated company (as in the United Gas Improvement Case). Engineers now has its representatives managing the three subsidiaries in question; and we could not say that a mere divestment by Engineers of voting securities of those companies, down to some indefinite figure less than 10 per cent or even less than 5 per cent, would constitute action complying with § 11(b)(1)—i.e., would effectively eliminate controlling influences or limit the operations of the Engineers holding company system to a single integrated public utility system and such other businesses and additional systems as are permitted by the act.

[58] (1941) 8 SEC ——, Holding Company Act Release No. 2692, pp. 15–18.

[59] Counsel for respondents at the oral argument described the suggested orders under § 2(a)(8) as orders declaring the companies in question not to be "public-utility companies" under the act. Section 2(a)(8), however, deals with the parent-subsidiary relationship only, and not with the definition of "utility company," which is governed by §§ 2(a)(3) and 2(a)(4). We therefore assume that the form of respondent's argument was inadvertent, and treat it in the light most favorable to respondents.

Second, proceedings under § 2(a)(8) are not designed for the purpose suggested by the respondents, which would make them ancillary to § 11(b)(1) proceedings and would, in effect, convert them into a means of obstructing and interminably delaying § 11(b)(1) proceedings.

The three subsidiary companies in question have no substantive right to indulge in proceedings under § 2(a)(8) or to have any of their securities retained by Engineers. Proceedings under § 2(a)(8) afford a means of relieving companies (whether utilities or nonutilities) of the "obligations, duties, and liabilities" imposed upon subsidiary companies of registered holding companies under the act, if we find that they are not controlled by or susceptible to the controlling influence of a specified holding company within the meaning of the section. The right of the companies in question is to be relieved of those "obligations, duties and liabilities" if they are actually divorced from the holding company-subsidiary relationship, and that end can readily be accomplished by Engineers' divesting itself of all its interests in such companies—unless, indeed, such interests are acquired by another registered holding company, in which case the subsidiaries would not be entitled to the relief in question.

Similarly, Engineers has no substantive right to indulge in proceedings under § 2(a)(8). That section permits an application to be filed by a holding company as well as by a company in respect of which the order is to be entered, because it may well be an advantage to a holding company not to have certain responsibilities which it would otherwise have in respect of a company which is prima facie a subsidiary under the act. The issue presented in such a proceeding is whether or not there is control or susceptibility to controlling influences *in fact,* and does not merely relate to the percentage of voting securities held. It has frequently been a most troublesome question, necessitating the most thorough exploration of historical and potential relationships between the companies involved.[60] Favorable action on the application cannot determine the issues for all time, but must by reason of its very nature be conditional and temporary—a declaration of present status under existing circumstances, subject to change with any material change of circumstances.[61] Congress cannot be thought to have intended any such inconclusive

[60] See e. g. Re Detroit Edison Co. (1940) 7 SEC 968, 35 PUR(NS) 65, aff'd Detroit Edison Co. v. Securities and Exchange Commission, 119 F(2d) 730, 39 PUR(NS) 193, decided May 12, 1941; and Re Manchester Gas Co. (1940) 7 SEC 57.

[61] Section 2(a)(8) in part provides:

"As a condition to the entry of, and as a part of, any order granting such application, the Commission may require the applicant to apply periodically for a renewal of such order and to file such periodic or special reports regarding the affiliations or intercorporate relationships of the applicant as the Commission may find necessary or appropriate to enable it to determine whether in the case of the applicant the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. The Commission, upon its own motion or upon application, shall revoke the order declaring such company not to be a subsidiary company whenever in its judgment any condition specified in clause (i), (ii), or (iii) is not satisfied in the case of such company, or modify the terms of such order whenever in its judgment such modification is necessary to ensure that in the case of such company the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective."

For an illustration, see our conditional order in Re Panhandle Eastern Pipe Line Co.

disposition of questions under § 11 (b)(1), which calls not only for finality of action but also for a promptness of action which would be precluded by the injection of § 2(a)(8) proceedings wherever divestment of a subsidiary's securities is involved. A thorough divestment of all of Engineers' interests in the Puget Sound, Western, and Key West companies would make unnecessary the relief afforded by § 2 (a)(8), and certainly it would not deprive Engineers, any more than its subsidiaries, of any substantive right under that section.

7. Nature of Order to Be Entered Herein, and Instructions Regarding the Further Conduct of Hearings

On the basis of the conclusions hereinabove set forth as to the requirements of § 11(b)(1), we find that divestment by Engineers of all its interests in Puget Sound Power & Light Company, the Western Public Service Company, and the Key West Electric Company constitutes action (though not by any means all the action) that is necessary to limit the operations of the Engineers holding company system to a single integrated public utility system and to such other businesses and additional systems as are permitted by § 11(b)(1). We will take no action at this time with respect to the retention of other properties by Engineers, the issues with respect to such properties not yet having been submitted to us; nor will our order at this time, for the reasons already noted, require Engineers to divest itself of its interest in the Western Public Service Company.

With respect to the companies named, the respondents have been accorded an adequate opportunity to present their arguments and evidence. We have considered these companies in relation to the whole system, and after exploring all possible bases for their retention, we have found none. The properties of these companies are so situated that their status under § 11 (b)(1) as applied to Engineers cannot be altered by any subsequent order herein dealing with other properties in the holding company system.[62]

The mandate of § 11(b)(1) is that "as soon as practicable after January 1, 1938," we require by order, after notice and opportunity for hearing, that compliance be had with its provisions. Section 20(a) of the act, 15 USCA § 79t authorizes this Commission "from time to time to make, issue, amend, and rescind such . . . orders as it may deem necessary or appropriate to carry out the provisions

Holding Company Act Release No. 2778 (May 27, 1941), which provided:

". . . that the application of Panhandle Eastern Pipe Line Company for an order declaring it not to be a subsidiary of the Missouri-Kansas Pipe Line Company, be, and it hereby is, granted, upon condition, however, that if at any time it appears to the Commission that the material facts and circumstances stated in its findings and opinion herein are changed, the Commission may reopen these proceedings and, in that event, if after notice and opportunity for further hearing, Missouri-Kansas Pipe Line Company, or Panhandle Eastern Pipe Line Company, shall fail to sustain the burden of proving that Panhandle Eastern Pipe Line Company is not controlled, an intermediary through which control is exercised, or subject to a controlling influence by Missouri-Kansas Pipe Line Company within the meaning of § 2(a)(8) of the Public Utility Holding Company Act of 1935, so much of this order as grants the application of Panhandle Eastern Pipe Line Company to be declared not to be a subsidiary of Missouri-Kansas Pipe Line Company may be revoked."

[62] The premise for this conclusion is that the principal system of Engineers will be either the electric utility system of the Virginia company or that of the Gulf States Company —a premise that is not disputed by counsel for the respondents.

of this title. . . ." The propriety of entering separate final orders at various stages of a proceeding of this type has already been discussed and decided by us.[63]

Accordingly our order will provide that at the present time the following action be taken as necessary for the purpose of bringing about compliance with § 11(b)(1) of the act: that Engineers shall sever its relationship with the companies named hereafter by disposing or causing the disposition, in any appropriate manner not in contravention of the applicable provisions of the act or the rules and regulations promulgated thereunder, of its direct and indirect ownership, control, and holding of securities issued by Puget Sound Power & Light Company and its subsidiaries, and the Key West Electric Company.

Our order herein will require that to be done within one year, as provided by § 11(c) of the act, without prejudice to the right of the respondents to apply for additional time under the provisions of that section, and also without prejudice to our right to enter other and further orders herein from time to time requiring respondents to take such additional action as may be necessary for compliance with § 11.

The hearing will meanwhile proceed with respect to other issues in a manner not inconsistent with the views expressed in this opinion, and subject to the following instructions which have been heretofore issued and which are deemed binding upon the trial examiner and counsel in the case:

(1) Respondents are not to be permitted to introduce evidence bearing solely upon the constitutionality of the act unless, in the event judicial review of one or more of our orders herein is sought, the reviewing court orders such evidence to be taken before us. However, if counsel for respondent deems it necessary to make a new and more formal proffer of such evidence in this proceeding in order to save respondents' rights on appeal, he is to be permitted to make such proffer at a time to be fixed by the trial examiner with due regard for the convenience of counsel.

(2) Respondents are to be permitted to introduce evidence as to the integration of the El Paso electric system, and as to whether such system meets the standards of clauses (A) and (C) of § 11(b)(1) in relation to the Gulf States electric system; also evidence as to the nonutility businesses of El Paso Electric Company (Delaware).

(3) Respondents are to be permitted to introduce additional evidence, if they so desire, as to the integration of the Baton Rouge gas system, and as to whether such system meets the standards of clauses (A) and (C) of § 11(b)(1) in relation to the Gulf States electric system; also as to the integration of the Norfolk gas system, and as to whether such system meets the (A) and (C) standards in relation to the Virginia electric system.

(4) Respondents are to be permitted to introduce evidence as to the integration of the Savannah electric

[63] Re United Gas Improv. Co. (1941) 8 SEC —, Holding Company Act Release No. 2692; Re Community Power & Light Co. (1939) 6 SEC 182, 194, 32 PUR(NS) 149; Re Peoples Power & Light Co. (1937) 2 SEC 829, 836, 21 PUR(NS) 1.

system, and as to whether such system meets the (A) and (C) standards in relation to the Virginia electric system; also evidence as to the nonutility businesses of Savannah Electric and Power Company.

(5) Respondents are not to be permitted to introduce evidence as to the integration of the Puget Sound or Key West electric or gas systems, or as to whether any of those systems meet the (A) and (C) standards in relation to any other of such systems, or as to any nonutility businesses of Puget Sound Power & Light Company.

(6) At an appropriate time to be fixed by the further direction of this Commission, respondents will be permitted to introduce evidence of the character described in the preceding paragraph relating to the electric utility system or systems, and the nonutility businesses, of the Western Public Service Company and its subsidiaries.

APPENDIX A

Engineers Public Service Company
Holding Company System

Name of Company	Kind of Business	State of Organization & Date		State of Operation
Engineers Public Service Co.	Holding Company	Del.	6/23/25	
Baton Rouge Bus Co., Inc.	Bus Company	La.	8/1/38	Louisiana
El Paso Elec. Co. (Del.)	Holding Company	Del.	6/14/24	
El Paso Elec. Co. (Tex.)	Elec. Util. St. Ry. Bus & Toll Brdg.	Tex.	8/30/01	Texas and New Mexico
El Paso and Juarez Traction Co.	St. Ry. & Toll Bridge	Tex.	4/9/00	Mexico
Gulf States Utilities Company	Elec. & Gas Util. Ice & Water	Tex.	8/25/25	Texas and Louisiana
The Key West Electric Company	Electric Utility	N. J.	5/16/98	Florida
Puget Sound Power & Light Co.	Elec. & Gas Util. Telephone & Steam	Mass.	7/8/12	Washington
Washington Electric Company	Holds Land and Water Rights	Maine	12/6/12	
North Coast Transportation Co.	Bus Company	Wash.	12/1/21	Wash., Ore., & British Columbia, Can.
Independent Stages, Inc.	Bus Company	Nev.	5/15/34	Wash. & Oreg.
Diamond Ice & Storage Company	Ice & Cold Storage	Wash.	11/25/92	Washington
The Ice Delivery Company	Ice Company	Wash.	4/12/13	Washington
Savannah Elec. & Pr. Company	Elec. St. Ry. & Bus	Ga.	8/5/21	Georgia
Virginia Elec. & Pr. Company	Elec. St. Ry. Gas & Bus	Va.	6/29/09	Virginia and No. Carolina
The Western Pub. Service Co.	Elec. Ice & Stm. Htg.	Md.	4/20/29	Nebr., S. Dak., Wyo., Colo.
Missouri Service Company	Elec. Ice & Water	Mo.	7/25/28	Missouri, Iowa
The Northern Kansas Power Co.	Electric Utility	Kan.	4/2/30	Kansas
Engineers Public Service Co. Inc.[1]	Service Company	N. Y.	11/24/26	

[1] Engineers Public Service Company, Inc., is a mutual service company, the outstanding stock of which is owned in varying amounts by practically all of the above system companies.

(Exhibit 1)

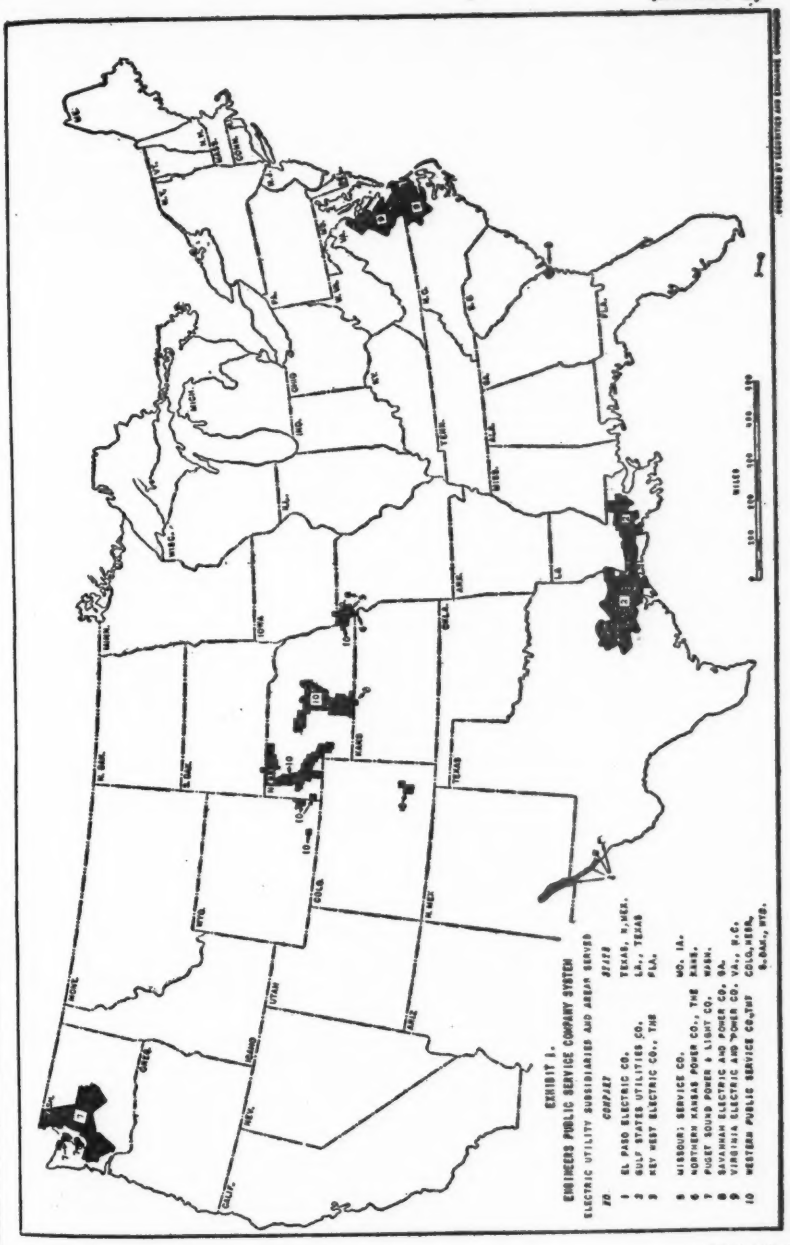
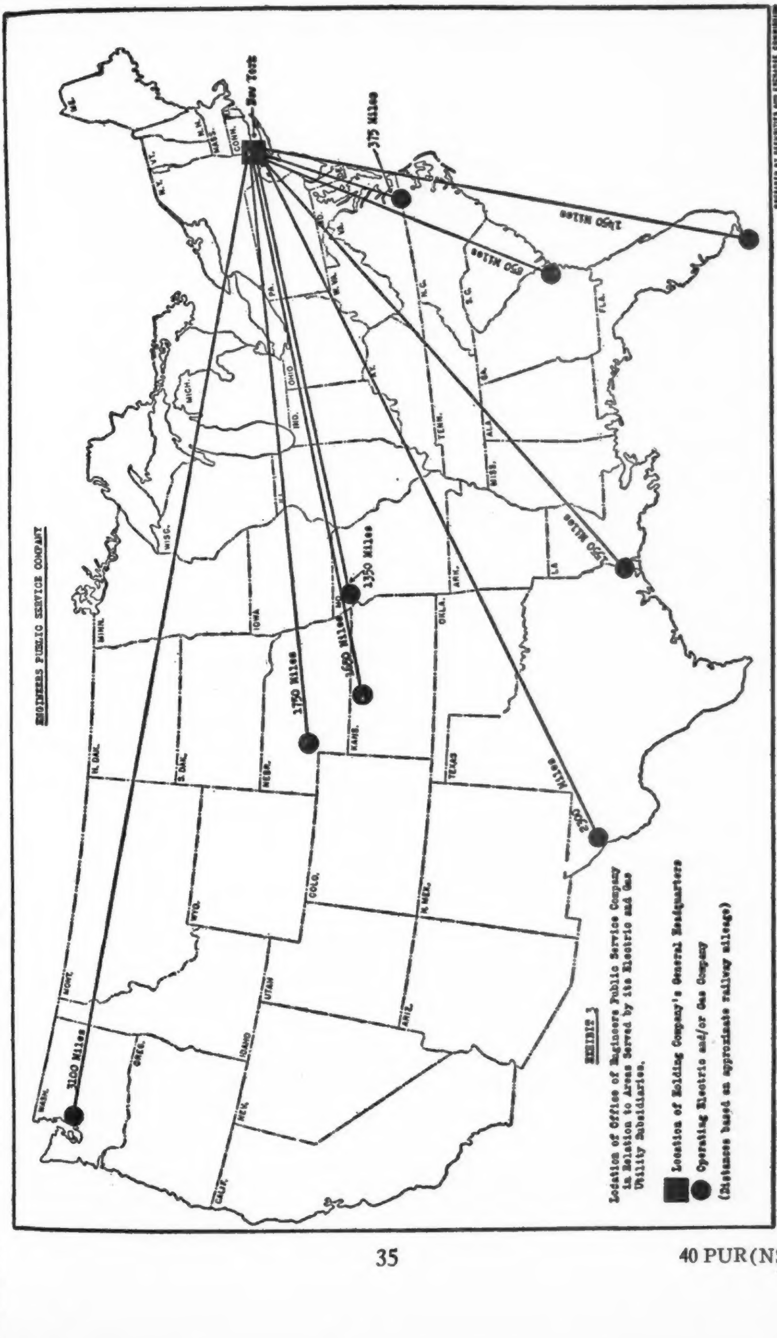


EXHIBIT 1.
ENGINEERS PUBLIC SERVICE COMPANY SYSTEM
ELECTRIC UTILITY SUBSIDIARIES AND AREAS SERVED
NO. COMPANY STATE
1 EL PASO ELECTRIC CO. TEXAS, N.MEX.
2 GULF STATES UTILITIES CO. LA., TEXAS
3 KEY WEST ELECTRIC CO., THE FLA.
5 MISSOURI SERVICE CO. MO. IA.
6 NORTHERN KANSAS POWER CO., THE KANS.
7 PUGET SOUND POWER & LIGHT CO. WASH.
8 SAVANNAH ELECTRIC AND POWER CO. GA.
9 VIRGINIA ELECTRIC AND POWER CO. VA., N.C.
10 WESTERN PUBLIC SERVICE CO.(SUF COLO.,NEBR.
S.DAK.,WYO.

(Exhibit 2)

EXHIBIT 2
ENGINEERS PUBLIC SERVICE COMPANY SYSTEM
GAS UTILITY SUBSIDIARIES AND PRINCIPAL COMMUNITIES SERVED
NO. COMPANY STATE
1 GULF STATES UTILITIES CO. La.
2 PUGET SOUND POWER & LIGHT CO. Wash.
3 VIRGINIA ELECTRIC AND POWER CO. Va.
MILES
0 100 200 300 400 500
PREPARED BY ENGINEERS AND DRAWING DEPARTMENT

(Exhibit 3)


ENGINEERS PUBLIC SERVICE COMPANY
New York
375 Miles
1950 Miles
650 Miles
1350 Miles
1650 Miles
1750 Miles
1250 Miles
2300 Miles
3100 Miles
EXHIBIT 3
Location of Office of Engineers Public Service Company in Relation to Areas Served by its Electric and Gas Utility Subsidiaries.
Location of Holding Company's General Headquarters
Operating Electric and/or Gas Company
(Distances based on approximate railway mileage)

ORDER

1. The Commission having on February 28, 1940, issued a notice of and order for hearing pursuant to § 11 (b)(1) of the Public Utility Holding Company Act of 1935, 15 USCA § 79k, with respect to Engineers Public Service Company and its Subsidiary Companies, Respondents, stating that it appears that the Engineers Public Service Company holding company system is not confined in its operations to that of a single integrated public utility system and to such other businesses as are reasonably incidental or economically necessary or appropriate to the operations of such an integrated public utility system within the meaning of § 11(b)(1) of the act; and

2. The respondents, in their answer filed to such notice of and order for hearing, having objected that they had not been furnished with a statement of the Commission more particularly specifying underlying conclusions with respect to particular portions of the holding company system and as to what action the Commission believed would be required by § 11(b)(1) of the act; and

3. The Commission in its opinion issued June 1, 1940, 7 SEC 371, having undertaken to furnish such a statement, and on March 11, 1941, 37 PUR(NS) 263, having issued (a) a statement of tentative conclusions as to the application of the provisions of § 11(b)(1) to the Engineers Public Service Company holding company system, and (b) an order requiring the respondents to show cause why the Commission should not forthwith issue an order requiring the respondent, Engineers Public Service Company, to divest itself of its interest in all subsidiaries except certain subsidiaries named in the order to show cause; and

4. The Commission, at hearings held thereafter upon notice duly given, having heard the respondents with respect to certain issues and having considered the record, and having this day made and filed its findings and opinion herein, finding (among other things) that the action hereinafter directed to be taken is necessary and appropriate for the purpose of bringing about compliance with § 11(b)(1) of the act, without prejudice, however, to the right of this Commission to enter such other and further orders herein from time to time as the Commission may be advised requiring respondents to take such additional action as may be necessary for compliance with § 11; now therefore it is

Ordered, pursuant to § 11(b)(1) of the Public Utility Holding Company Act of 1935, that Engineers Public Service Company shall sever its relationship with the companies hereinafter designated by disposing or causing the disposition in any appropriate manner not in contravention of the applicable provisions of said act or the rules and regulations promulgated thereunder, of its direct and indirect ownership, control and holding of securities issued by Puget Sound Power & Light Company and its subsidiaries, and the Key West Electric Company; and it is further

Ordered that the respondents, in accordance with subparagraph (c) of § 11 of said act, shall comply with the preceding paragraph of this order within one year from the date hereof, without prejudice to their right to apply for additional time to comply with such order as provided in such section.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Conestoga Transportation Company

v.

Penn Highway Transit Company

[Complaint Docket No. 13458.]

Fines and penalties, § 8 — Illegal operation — Defenses — Change in rule.

1. Allegations in a complaint against a motor transportation company that the company transported groups or parties from a point of origin to a destination served by the regular route service of the complainant and made the return trip in less than one hour after the last scheduled bus of complainant left the point of destination for the point of origin, in violation of rules of the Commission prohibiting such conduct in group and party service, should be dismissed where since the institution of the proceedings the Commission has by order altered its rules so as to authorize the service complained of, p. 39.

Fines and penalties, § 8 — Violation of motor vehicle code — Improper license tags — Enforcement by other department.

2. No penalty should be levied on a motor transportation company for a violation of the Motor Vehicle Code by the use of improper license tags on busses, since the enforcement of the Motor Vehicle Code has been delegated to the Department of Revenue, p. 39.

Fines and penalties, § 8 — Defenses — Coercion in filing tariffs.

3. A contention by a motor transportation company seeking to be excused for unauthorized operation that it was coerced, under threats of losing its certificate by the then acting director of the bureau of motor transportation, into filing an unfair tariff against its will, even if true, is no defense to a failure to adhere to the tariff on file with the Commission, p. 39.

Fines and penalties, § 7 — Unlawful motor bus operation — Deviation from tariff.

4. A motor transportation company which has transported persons in group and party service at rates inconsistent with its tariffs on file with the Commission in violation of § 303 of the Public Utility Law must pay a penalty for such illegal operation, p. 39.

[June 23, 1941.]

COMPLAINT *against alleged unauthorized operation by a motor transportation company; complaint sustained in part and penalty imposed.*

By the COMMISSION: This matter is before us upon complaint filed on December 19, 1940, by Conestoga Transportation Company at Complaint Docket No. 13458 against Penn Highway Transit Company, respond-

ent, alleging a series of deviations in group and party rates from its filed tariffs in violation of § 303 of the Public Utility Law, with having violated the Motor Vehicle Code, with transporting less than ten persons in violation of the conditions applying to certificates of public convenience authorizing group and party service, and other infractions of the rules and regulations of the Commission hereinafter discussed.

On December 30, 1940, the respondent filed an answer denying the allegations set forth in the complaint, and in addition thereto filed a cross-complaint at Complaint Docket No. 13462 charging the Conestoga Transportation Company with similar violations of the Public Utility Law. However, on April 24, 1941, the date fixed for the hearing of both complaints, the latter one (C. 13462) was abandoned by the Penn Highway Transit Company and we, therefore, shall confine our remarks to Complaint 13458.

Both the complainant and respondent, by virtue of certificates of public convenience issued by this Commission, operate a fleet of busses for the transportation of persons. The matter before us is confined to the aforementioned violations of the Public Utility Law by the Penn Highway Transit Company, respondent, in its group and party service. This proceeding resulted from an examination made by the complaint of the monthly reports on group and party service, filed with the Commission by the respondent. Those reports reveal that the respondent was not adhering to the rates listed in its tariffs on file with this Commission. At the hearing the complainant offered as its sole witness its general manager, who gave testimony concerning a series of violations of the Public Utility Law by the respondent. The testimony of this witness was rather lucid. He read from the official records of the Commission, namely, the monthly reports filed by the respondent, and referred to approximately 23 trips made by the respondent which patently deviated from its tariff rates in violation of § 303 of the Public Utility Law. This series of violations cover a period commencing about the beginning of January, 1940, and extends to the end of September of that year. Prior to May 3, 1940, the effective tariff of the respondent for group and party service provided for a single schedule of rates to all patrons on a mileage basis as follows:

29-passenger bus, per mile	$.40
25-passenger bus, per mile	.35
21-passenger bus, per mile	.30
7-passenger bus, per mile	.15

On May 3, 1940, a new tariff became effective which provided reduced rates to patrons using the service in excess of 500 miles annually, or for individual trips of more than 100 miles. This tariff also changed the rates for busses in group and party service from a strictly mileage rate basis as provided in its former tariff, and substituted therefor a flat rate per bus on a graduated sliding scale, depending on the mileage.

In an attempt to set forth a clear and concise picture of the violations referred to *supra*, we list below and attach hereto a chart marked Exhibit "A" showing the number of trips made, with dates, round-trip mileage, number and type of bus or busses operated, the rate that should have been

charged, the rate actually charged, the party served where known, and finally our supplemental remarks showing the violation in each instance. See Exhibit "A" attached. [Exhibit "A" omitted.]

[1] In addition to the violations designated above, the complaint alleged at Paragraph E that the respondent transported groups or parties from a point of origin to a destination served by the regular route service of the complainant, and made the return trip in less than one hour after the last scheduled bus of complainant left the point of destination for the point of origin. When the complaint was filed, the rules of the Commission prohibited such conduct in group and party service. The respondent admitted the allegations of paragraph E of the complaint (R. 28) but since the institution of these proceedings, the Commission, by order dated January 21, 1941, altered its rules so as to authorize the service complained of at paragraph E, and therefore, we shall dismiss from our consideration the allegations of said paragraph.

[2] At paragraph F of the complaint, the respondent is charged with violating the Motor Vehicle Code by the use of improper license tags on its busses. The corresponding paragraph of the respondent's answer admits the allegation of the complaint but condones its conduct under a claim of authorization supposedly granted by a former Acting Director of the Bureau of Motor Transportation (R. 36). While the explanation of the respondent is not acceptable, no penalty shall be levied on account of this violation, since the enforcement of the Motor Vehicle Code has been delegated to the Department of Revenue (1929, April 9th, P. L. 177, Art. XXV, § 2502).

Paragraph G of the complaint alleges another violation of the rules of this Commission concerning group and party service in that the respondent transported less than ten persons on various occasions. This is also admitted by the respondent (R–46). As to this violation, the respondent pleads ignorance of the prohibiting regulation of this Commission, and that said misconduct was discontinued as soon as it was apprised of the Commission's rule. The record discloses six distinct trips made by the respondent in group and party service wherein it transported less than ten passengers (R–30).

[3] It appears the respondent company is owned and operated by George W. Myers and his wife, Violet, both of whom testified on its behalf. Their testimony, instead of rebutting the evidence offered by the complainant, sought excuse for the misconduct of the respondent. They contend they were coerced, under threats of losing their certificate by the then acting director of the Bureau of Motor Transportation (McFadden), into filing an unfair tariff against their will. (R–25.) The record discloses nothing to corroborate this assertion, which, even if true, is no defense to respondent's failure to adhere to its tariff on file with the Commission. We therefore are not impressed with its importance, and shall refrain from giving it any further consideration. On the other hand, we cannot ignore the proofs offered by the complainant to sustain its action taken and the utter inability of the respondent to properly defend itself.

[4] The Commission therefore finds

and determines that Penn Highway Transit Company, respondent, has on nineteen different days transported persons in group and party service at rates inconsistent with its tariffs on file with the Commission in violation of § 303 of the Public Utility Law. In addition we find the respondent has on six different days transported less than ten persons in group and party service in violation of the conditions applying to certificates of public convenience authorizing group and party service.

Section 1301 of the Public Utility Law authorizes the Commission to levy a penalty against the respondent of $50 for each day's violation. The full penalty provided by law for respondent's unlawful operation will not be imposed. The Commission finds that respondent by reason of its illegal operation has forfeited to the commonwealth of Pennsylvania the sum of $50 for each of six days' illegal operation—or a total of $300; therefore,

Now to wit, June 23, 1941, it is *ordered:*

(1) That the complaint be and is hereby sustained.

(2) That Penn Highway Transit Company forthwith pay to the commonwealth of Pennsylvania the sum of $300, which it has forfeited by reason of its illegal operations.

(3) That Penn Highway Transit Company, respondent, its agents and employees forthwith cease and desist from transporting persons in group and party service between points in Pennsylvania at rates which are either greater or less than the rates specified in the tariff of the respondent on file with the Commission.

(4) That Penn Highway Transit Company, respondent, its agents and employees forthwith cease and desist from transporting less than ten persons in group and party service between points in Pennsylvania.

NEW YORK DEPARTMENT OF PUBLIC SERVICE, STATE DIVISION, PUBLIC SERVICE COMMISSION

Re Unauthorized Bus Operations

Certificates of convenience and necessity, § 85 — Grounds for denial — Illegal operation.

1. No authority will be granted to a bus operator guilty of illegal operation such as the beginning of operation over unauthorized routes before legal consent has been obtained, p. 41.

Certificates of convenience and necessity, § 2 — Illegal operation — Unauthorized routes.

2. Motor bus operations over a new route or any highway, street, or public place for which full authority has not been obtained will not be allowed, p. 41.

Certificates of convenience and necessity, § 127 — Deviations from route — Illegality.

3. Deviations from authorized motor bus routes, although they may be on

parallel or adjacent streets, may not be undertaken without full authority, the only exception being in the case of temporary or extreme emergency where such unusual occurrences as fires, floods, and street reconstructions require an immediate and brief departure from authorized routes or suspension of service, p. 41.

Service, § 215 — Unauthorized abandonment — Bus operation.

4. No motor bus operator may abandon part or all of a route or cease to operate as required by his certificate and the laws of the state without first having obtained complete authority to do so, the only exception being in the case of temporary or extreme emergency where such unusual occurences as fires, floods, and street reconstructions require an immediate and brief departure from authorized routes or suspension of service, p. 41.

[June 25, 1941.]

INVESTIGATION *of unauthorized bus operations; memorandum issued.*

By the COMMISSION: [1] According to reports and other information received by the Commission, there have been a number of instances where busses have been operated illegally or those duly authorized have ceased operation in whole or in part illegally. These illegalities consist of:

1. Operation over streets, highways, and public places without local consent and authority from this Commission;

2. Deviations from authorized routes without the approval of this Commission;

3. Suspension of service without authority;

4. Operation under rights granted to others before the transfer of such rights has been officially authorized.

It seems to have been assumed that a bus operator may begin operation over unauthorized routes before legal consent has been obtained and that such illegal operation will not prejudice the operator's case before local authorities and before this Commission. There have been instances where the Commission has condoned such practices by granting a certificate to operate although the operator was guilty of illegal operation prior thereto. What was incidental and perhaps accidental has developed into a practice, and the Commission has decided that hereafter no authority will be granted to an operator guilty of illegal operation at the time, that all illegal operation must cease and that every applicant must come before the Commission with clean hands and secure full legal authority to operate before proceeding.

[2–4] This general statement applies to all classes of illegal operation. In other words, operation over a new route or any highway, street, or public place for which full authority has not been obtained will not be allowed. Deviations from authorized routes, although they may be on parallel or adjacent streets, may not be undertaken without full authority. No operator may abandon part or all of a route or cease to operate as required by his certificate and the laws of the state without first having obtained complete authority to do so.

The only exceptions to these rules are temporary or extreme emergencies where such unusual occurrences as fires, floods, and street reconstructions require an immediate and brief departure from authorized routes or suspension of service. Even then, if the operation is to continue for any considerable length of time, authority should be obtained. The employees of the Commission have been instructed to report promptly all cases of illegal operation.

A copy of this memorandum should be sent to every operator so that there will be hereafter no excuse for illegal operation or failure to comply with the statute regarding bus operations.

SECURITIES AND EXCHANGE COMMISSION

Re Moreau Manufacturing Corporation

(File Nos. 31-461, 31-472, Release No. 2868.)

Intercorporate relations, § 19.21 — Holding company regulation — Subsidiary status — Controlling influence.

1. An application for an order, pursuant to § 2(a) (8) of the Holding Company Act, declaring a company not to be a subsidiary of specified holding companies owning more than 10 per cent of the applicant's outstanding voting securities should be denied when the facts regarding the company's origin and the purposes for which it was admittedly established are such that the applicant fails to sustain its burden of proving the absence of controlling influence, while, on the other hand, it appears that the company's management and policies are subject to controlling influences, directly and indirectly, by affiliated companies, p. 43.

Intercorporate relations, § 14.1 — Controlling influence — Holding company regulation — Subsidiary status.

2. The fact that an affiliated company may at times differ with other affiliates in matters of policy is of no moment in deciding whether there is a controlling influence under § 2(a) (8) of the Holding Company Act, since the act need not be construed as meaning that those exercising controlling influence must be able to carry their point, p. 43.

[July 8, 1941.]

APPLICATION *for declaration as to subsidiary status under § 2 (a) (8) of the Holding Company Act; order declaring applicant not to be a subsidiary denied.*

APPEARANCES: Daniel F. Imrie, for the applicant; Edward F. McCabe and J. Butler Walsh, for the Public Utilities Division of the Commission.

By the COMMISSION: Pursuant to § 2(a) (8) of the Public Utility Holding Company Act of 1935, 15 USCA § 79b, Moreau Manufacturing

Corporation has filed an application for an order declaring that it is not a subsidiary company of International Hydro-Electric System, or of Joseph B. Ely, C. Brooks Stevens, and Henry G. Wells, as Trustees under a trust agreement dated January 31, 1939, and an application for an order declaring that it is not a subsidiary of Niagara Hudson Power Corporation, or of The United Corporation.

Moreau has only one class of securities outstanding: 2,526 shares of common stock, each entitled to one vote. The ownership, control, and power to vote these shares are equally divided among Niagara Hudson Power Corporation, International Hydro-Electric System, and Finch, Pruyn and Company, Inc.[1]

Niagara Hudson is a subsidiary of United, which owns 23.18 per cent of Niagara Hudson's outstanding voting securities. At the date of the filing of these applications, International was a subsidiary of the Trustees, who held 71.37 per cent of International's outstanding voting securities.[2] Finch Pruyn is a New York corporation engaged in the manufacture of newsprint paper in New York state. United, the Trustees, and International are registered holding companies. Niagara Hudson, although a statutory subsidiary of United, is exempt from registration as a holding company by virtue of Rule U-2.[3]

After appropriate notice, a hearing was held before a trial examiner. Requested findings and briefs have been filed by counsel for the applicant and counsel for the Public Utilities Division.

[1, 2] Section 2(a) (8) of the act defines a subsidiary company of a specified holding company as:

"(A) any company 10 per centum or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company (or by a company that is a subsidiary company of such holding company by virtue of this clause or clause (B)), unless the Commission, as hereinafter provided, by order de-

[1] The following abbreviations are used generally in the course of this opinion:

Moreau Manufacturing Corporation—"Moreau" or "the applicant."

International Hydro-Electric System—"International."

Joseph B. Ely, C. Brooks Stevens, and Henry G. Wells, as Trustees under a trust Agreement dated January 31, 1939—"the Trustees."

Niagara Hudson Power Corporation—"Niagara Hudson."

The United Corporation—"United."

Finch, Pruyn and Company, Inc.—"Finch Pruyn."

[2] On June 16, 1941, pursuant to our order of January 17, 1941, issued in the case of Re International Hydro-Electric System, 8 SEC —, Holding Company Act Release No. 2494, the Trustees surrendered to International for cancellation all of the stock of International held by them, and at the present time hold no securities of International. In view of this fact, the applicant is no longer a statutory subsidiary of the Trustees under § 2(a) (8) (A). Accordingly, we think that the application, in so far as it seeks an order declaring applicant not to be a subsidiary of the Trustees, should be dismissed. Re Detroit Edison Co. (1940) 7 SEC 968, 35 PUR(NS) 65.

[3] Rule U-2 reads, in part:

"(a) General Provisions. Any holding company, and every subsidiary company thereof as such, shall, subject to the filing of an exemption statement on Form U-3A-2 on or before March 1st of each year, and subject to the provisions of Rule U-6, be exempt from all the provisions of the act and rules thereunder, except § 9(a) (2) of the act, if—

"(1) such holding company, and every subsidiary company thereof which is a public-utility company from which such holding company derives, directly or indirectly, any material part of its income are predominantly intrastate in character and carry on their business substantially in a single state in which such holding company and every such subsidiary company thereof are organized; . . . ."

clares such company not to be a subsidiary company of such holding company; and

"(B) any person the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in this title upon subsidiary companies of holding companies."

Moreau is, therefore, a subsidiary company of United, of Niagara Hudson, and of International, within the definition set forth in clause (A), *supra*. The last paragraph of § 2(a)(8), under which the applications herein are filed, provides that:

"The Commission, upon application, shall by order declare that a company is not a subsidiary company of a specified holding company under clause (A) if the Commission finds that (i) the applicant is not controlled, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) either through one or more intermediary persons or by any means or device whatsoever, (ii) the applicant is not an intermediary company through which such control of another company is exercised, and (iii) the management or policies of the applicant are not subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed in this title upon subsidiary companies of holding companies. . . ."

The application is, therefore, necessarily based upon the claim that, with respect to each of the holding companies specified in the applications, Moreau meets the three tests prescribed by this last paragraph.[4]

Origin and Business of Applicant

Moreau owns a small hydroelectric plant, land, and water rights at the Feeder dam on the Hudson river above Glens Falls in Saratoga county and Warren county, in New York state. Moreau does not own any transmission or distribution lines and does not sell electric energy to the public. The land and water rights now owned by Moreau were formerly owned in part by Finch Pruyn, in part by International Paper Company (a predecessor in interest of International), and in part by Adirondack Power and Light Corporation (a predecessor of New York Power and Light Corporation which is a subsidiary of Niagara Hudson). Moreau was organized by these three companies in 1923 for the purpose of utilizing the surplus waters at Feeder dam and the lands and water

[4] See Re Byllesby & Co. (1940) 6 SEC 639, 650, 32 PUR(NS) 130; Re Detroit Edison Co., *supra*, petition for review denied; Detroit Edison Co. v. Securities and Exchange Commission, 119 F(2d) 730, 39 PUR (NS) 193, May 12, 1941; Re Hartford Gas Co. (1941) 8 SEC —, Holding Company Act Release No. 2613.

rights there owned by the companies, as well as for the purpose of adjusting the conflicting rights and obligations of the companies as owners of other properties and rights above and below Feeder dam.

At the time when Moreau was organized, each of the three companies owning water rights at Feeder dam agreed to convey to Moreau the lands and water rights respectively owned, and in consideration therefor each of the three companies received one-third of Moreau's capital stock. Subsequently and from time to time the companies made advances to Moreau to finance the construction of a hydroelectric station to utilize the undeveloped surplus waters at Feeder dam.[5] In 1935 the respective lands and water right leases owned by the three companies and their successors were conveyed and assigned to Moreau, whereupon it issued 840 additional shares to each of the three participants.

At all times since the organization of Moreau, each of the three mentioned companies (or their successors) has controlled one-third of its outstanding voting securities, and such control continues at the present time. Moreau's board of directors has always consisted of six members, and from the outset each of the three mentioned companies has had proportionate representation on the board, subject only to temporary vacancies.

All power generated by Moreau is sold at Moreau's plant to New York Power and Light Corporation ("NYPL"), an admitted subsidiary of Niagara Hudson. Finch Pruyn has an option to purchase from NYPL an amount of energy equal to one-third of the output of Moreau's generating station.

While there is no written agreement concerning the supervision of Moreau's operations, counsel for Moreau stated at the hearing, and we find, that the management of Moreau "has been carried on by" NYPL, "by virtue of an oral understanding with the various stockholder owners" of Moreau—i.e., Niagara Hudson, Finch Pruyn, and International. Pursuant to this understanding, NYPL maintains routine supervision over Moreau's operations, but Moreau does have its own operating force. There are eleven full-time employees on its payroll, and a superintendent who divides his time equally between Moreau and Union Bag and Paper Power Corporation, an admitted subsidiary of Niagara Hudson, and who is on the payroll of that corporation as well as on the Moreau payroll.

In addition to engineering supervision, NYPL also makes available to Moreau the services of an auditor in the NYPL district office at Glens Falls and the books of account of Moreau are kept in this district office of NYPL. Moreau's Federal income tax returns and New York state franchise tax returns are prepared in the accounting department of NYPL. Moreau is regularly billed by NYPL at the rate of $67.50 a month for engineering services, and at the same rate for accounting services. Determinations of unusual significance, however, which must be made on occasion, are submitted to the board of directors of Moreau.

NYPL owns certain equipment which is necessary for the sale of

[5] Moreau is at present indebted in the amount of $314,500 to each of its three stockholders, or an aggregate of $943,500 on which it pays interest at 6 per cent.

Moreau's power output, and which could be removed by NYPL whenever it ceased to purchase the power. NY PL alone is equipped by franchises and a distribution system to take the output of the Feeder dam plant.

In 1939 Moreau generated and sold to NYPL 26,092,293 kilowatt hours, constituting approximately 9 per cent of all the firm energy received by NYPL from other electric utility systems and industrial companies. NYPL paid .34 cents per kilowatt hour for this power, which was less than that paid for any other firm power. In 1940 Moreau generated and sold to NYPL 26,228,273 kilowatt hours.

No dividends have ever been paid by Moreau. As of December 31, 1940, it had a surplus deficit of $49,522.76 and for the twelve months ended on that date it had a deficit in net income of $27,960.89. As of December 31, 1940, its total assets were recorded at $1,666,897.38, and its gross operating revenues for the year were $88,751.24.

In April, 1935, shortly after the power contract between Moreau and NYPL expired, NYPL offered to continue it at substantially lower rates. Finch Pruyn and one of the subsidiaries of International objected to the reduction in rates because the proposed new rates would not cover operating expenses, but they acquiesced in the proposal as an emergency measure. The contract has been continued on a year-to-year basis, at the rates suggested by NYPL.

Officers and Directors of Applicant

Otto Snyder, president of NYPL and vice president of Niagara Hudson, has been president of Moreau since 1932. Daniel F. Imrie, counsel for Moreau in this proceeding, has been secretary of Moreau since 1923. Snyder and Imrie are directors of Moreau and admittedly represent Niagara Hudson interests in that capacity. Irwin L. Moore, vice president and a director of Moreau, and George S. Ferris also a director, admittedly represent International. Moore is president of International, and Ferris is its assistant secretary and assistant treasurer. The two directors of Moreau who represent Finch Pruyn interests are Maurice Hoopes and George N. Ostrander. Both these men have been directors of Finch Pruyn since 1923; Hoopes is its president, and Ostrander its vice president and secretary. George F. Hoy, treasurer of Moreau since 1934, is also assistant treasurer of Finch Pruyn.

It is to be noted that no officer or director in the foregoing list receives any compensation from Moreau.

Controlling Influences; Propriety of Regulation

As we have observed, Moreau is subject to constant and direct supervision in various fields by NYPL, an admitted subsidiary of Niagara Hudson. This supervision, moreover, is admittedly carried on pursuant to an arrangement which is satisfactory to the three immediately interested companies—Niagara Hudson, International and Finch Pruyn. The facts regarding Moreau's origin and the purposes for which it was admittedly established are such that we believe it would be difficult to contrive an intercorporate setting more closely congru-

ent than this with the hypothetical setting described by clause (iii) of the last paragraph of § 2(a)(8), quoted *supra*. Accordingly, we find that applicant has not sustained its burden of proving the absence of controlling influence; we think it is clear from the record before us that Moreau's management and policies are subject to controlling influences, directly and indirectly, by International, Niagara Hudson, and United, pursuant to the arrangement which the record fully describes.[6] Even if we assume that any one of the three immediately interested companies may at times differ with the others in matters of policy, that fact is of no moment, since the act need not be construed as meaning "that those exercising controlling influence must be able to carry their point." Detroit Edison Co. v. Securities and Exchange Commission, *supra;* Re Northern Nat. Gas Co. (1939) 5 SEC 228.

It remains only for us to consider whether applicant has demonstrated that the controlling influences which are or may be exercised are not such "as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed" by the act upon subsidiaries of holding companies.

Moreau is an electric utility company, as defined by the act, over which neither the state of New York nor the Federal Power Commission exercises jurisdiction. Not merely the 10 per cent blocks which would make Moreau itself prima facie a subsidiary under the act, but a total of two-thirds of Moreau's outstanding voting securities are owned by subsidiaries of registered holding companies. In view of the foregoing, the conditions under which the contract between Moreau and NYPL for the purchase of power has been continued, considered with the amount of power produced and sold by Moreau, and the other facts and circumstances in the record, we cannot find that it is not necessary and appropriate, in accordance with the standards prescribed by the act, that applicant be subject to the obligations, duties, and liabilities provided for in the statute. Accordingly, we must deny the applications, in so far as they seek orders declaring applicant not to be a subsidiary of International, Niagara Hudson, and United.

An appropriate order will issue.

ORDER

Moreau Manufacturing Corporation having applied under § 2(a) (8) of the Public Utility Holding Company Act of 1935 for orders declaring it not to be a subsidiary company of International Hydro-Electric System, of Joseph B. Ely, C. Brooks Stevens, and Henry G. Wells, as Trustees under a trust agreement dated January 31, 1939, of Niagara Hudson Power Corporation, or of the United Corporation; a hearing on said applications having been duly held; the record

[6] As indicated above, Niagara Hudson is a statutory subsidiary of United. Since we find that applicant is subject to the controlling influence of Niagara Hudson, and since the relationship of parent and subsidiary as between Niagara Hudson and United has not been challenged, our findings with respect to Niagara Hudson are determinative of the application with respect to United. Re Manchester Gas Co. (1940) 7 SEC 57; Re Hartford Gas Co. *supra.*

having been duly considered; and the Commission having this day issued its findings and opinion;

It is *ordered* that the said applications, in so far as they seek an order declaring applicant not to be a subsidiary of Joseph B. Ely, C. Brooks Stevens, and Henry G. Wells, be, and the same hereby are, dismissed, and that in all other respects the said applications be, and the same hereby are, denied.

CALIFORNIA RAILROAD COMMISSION

Re Lake Gregory Water Company

[Decision No. 34162, Application No. 24084.]

Valuation, § 387 — Water rights — Springs — Inclusion in land value.

1. No additional cost should be allowed for water rights where a public utility is seeking to acquire an existing water distribution system and the cost of the land on which certain springs are located is recognized in determining value, since the water in the springs belongs to the land and some of it at least is used to aid the sale of land, p. 49.

Rates, § 308 — Shut-off and reconnection charges.

2. A water company should not be permitted to include with its rates a provision charging a fee for turning on and shutting off water, p. 50.

[May 6, 1941.]

APPLICATION *by water company for authority to issue securities in exchange for property and cash, for certificate of convenience and necessity, and for approval of rates; application granted in modified form.*

APPEARANCE: Rex B. Goodcell, for applicant.

By the COMMISSION: Lake Gregory Water Company asks the Commission (a) to grant it under § 50(a) of the Public Utilities Act a certificate of public convenience and necessity permitting it to construct a public utility water system in the area to which reference will hereafter be made; (b) to fix the rates it may charge for water, and (c) to authorize it to issue $77,649 par value of stock for the purposes hereinafter stated.

Lake Gregory Water Company is a corporation organized on January 29, 1941, under the laws of California. It has an authorized stock issue of $200,000, divided into 200,000 shares of a par value of $1 per share. Applicant was organized primarily for the purpose of acquiring and/or developing an adequate supply of domestic water for distribution to the residents of and owners of property situate with-

in lands adjacent to Lake Gregory, situate in section 23, township 2 North, Range 4 West, S.B.B.&M., and all of said lands being embraced within sections 23, 24, 25, and 26 of said township and range, and comprising a total of approximately 500 acres of land. About 177 acres of said land is now subdivided and approximately 85 cabins, or homes, are now situate thereon. The property is located in the San Bernardino mountains about 20 miles from San Bernardino and 8 miles or so west of Lake Arrowhead. At the hearing had on this application before Examiner Fankhauser on April 21st, P. E. Hicks, a civil engineer and a witness for applicant, testified that applicant was now seeking a certificate of public convenience and necessity to construct and operate a public utility water system in Tract No. 2143, Tract No. 1902, Tract No. 1863, Tract No. 2598, Tract No. 2616, Tract No. 2518, and Tract No. 2626. All of these tracts, except Tract No. 2626, a map of which only recently been recorded in the office of the recorder in San Bernardino county, are shown on the map filed in this proceeding as Exhibit No. 1. The area to which P. E. Hicks testified is more limited than the area set forth in Exhibit D on file in this proceeding. The order herein will grant applicant a certificate to construct a water system to serve the tracts mentioned. If it becomes necessary for applicant to serve additional areas or tracts, it should file a formal application for permission to extend its service.

Some of the tracts to which reference has been made were subdivided several years ago. Most of the pipe lines are laid on top of the ground, with the result that the water that is served through such pipe line gets hot in the summer while no water is available in the winter, on account of the freezing of the water in the pipes. Applicant proposes to remedy this situation by installing a new water distribution system. By doing so, it will use some of the pipes that are now in place. The pipes which are now in place are indicated on the map filed as Exhibit 1. Said map also shows the location of six springs which applicant intends to acquire, rights of way, reservoirs, and new pipe lines which it will install.

In Exhibit E, prepared by P. E. Hicks, the present value of the distribution system and the water rights, which applicant intends to acquire, is reported at $32,649, segregated as follows: [Table omitted.]

Applicant asks permission to issue to Walter E. Overell, its president, 3,000 shares of its common capital stock having a par value of $3,000, in liquidation of the $3,000 expended by applicant for engineering and legal expense. It further asks permission to issue to Redlands Security Company, 29,649 shares of its capital stock in exchange for the properties to which reference has been made. The Redlands Security Company, through foreclosure proceedings, became the owner of the water system which applicant now intends to acquire and to reconstruct.

[1] Applicant will acquire from Redlands Security Company the land on which six springs are located. P. E. Hicks, applicant's engineer, measured the springs during the fall of 1940 after an exceptionally dry year and found they were producing 36 gal-

lons of water per minute, or 4 miner's inches (M.I. = 1/50 sec. ft.). He estimates that by proper development they should produce under similar conditions 61 gallons of water per minute, or 6.6 miner's inches (M.I. = 1/50 sec. ft.). There are no other measurements of these springs available and weather conditions, with excessive rain during the winter months amounting to approximately 78 inches, precluded any measurements at this time that would be of value in determining a minimum of the springs' flow. Two of the springs have been used to supply water to cabins located on the subdivided area. P. E. Hicks assigns a value of $22,743 to the 61 gallons of water per minute on the basis of $14,-568 for water now available and $8,-175 for water that can be developed by his proposed improvements. These values are based on the cost of developing water in a well near Lake Gregory or taking it from Lake Gregory and pumping it to applicant's service area. This results in a value based on conditions that do not exist. The water in the springs belongs to the land and some of it at least has heretofore and is now being used to aid the sale of land. For the purpose of this proceeding, we will recognize the cost of the land on which the springs are located, but not an additional cost for water right.

In Exhibit G, also prepared by P. E. Hicks, the cost of reconstructing and enlarging applicant's water system is reported at $38,739. This amount is made up of the following items: [Table omitted.]

The testimony shows that not all of this expenditure will be made this year. Applicant proposes to relay immediately its distribution system and to develop such springs as are needed to supply the present demands for water. The well and pumping equipment will not be installed unless the supply of water from existing springs becomes inadequate. The record shows that W. E. Overell, applicant's president, will purchase enough of applicant's stock so that it will be in a position to reconstruct, improve, and extend promptly its distribution system.

[2] In Exhibit J, applicant sets forth its proposed monthly flat rates, and in Exhibit K, its proposed monthly meter rates. The proposed monthly flat rate schedule carries a proviso reading as follows:

"Provided, that unless the monthly flat rate is paid yearly in advance and/or the consumer elects to use water for a time less than twelve consecutive months, then the company shall charge, and the consumer shall pay, a fee of $2 to have the water shut off and a further fee of $1 to have the same turned on again."

It is not customary for this Commission to approve a rate schedule which carries with it a fee to shut off water and a further fee to turn on water. We are of the opinion that this proviso should be eliminated from the rate schedule. At the hearing, applicant amended its monthly minimum meter charge for ⅝-inch meters by reducing the amount shown in Exhibit K from $2.50 to $1.50. It is of record that applicant does not intend to install any meters unless it becomes evident that consumers are wasting water. The installation of meters should be optional with either the

utility or the consumer. The order following will fix the rates that applicant may charge for water upon a more uniform basis conforming with standard practice. It also specifies the amount of stock applicant may issue and the purposes for which said stock may be issued.

CALIFORNIA RAILROAD COMMISSION

Re K. Frank Henneken

[Decision No. 34240, Application No. 24131.]

Consolidation, merger, and sale, § 19 — Transfer to partnership.

1. Transfer of a one-half interest in a certificate of public convenience and necessity and also in water utility property by an individual to a proposed partner should not be approved in the absence of evidence that it would be in the public interest, p. 52.

Mortgages, § 1 — Deed of trust — Necessity of Commission authorization.

2. A deed of trust executed without permission from the Commission is ineffective to impose a lien upon public utility property, p. 52.

Security issues, § 38 — Unauthorized notes — Invalidity.

3. Notes issued by a public utility without authority of the Railroad Commission are void, p. 52.

Security issues, § 31 — Powers of Commission — Approval of void instruments.

4. The Commission cannot approve void instruments, such as a deed of trust or notes issued without amortization from the Commission, p. 52.

[May 27, 1941.]

APPLICATION *for order approving partnership, involving transfer of certificates and of property to partnership, and for approval of certain notes and mortgage; granted in part.*

APPEARANCE: Geo. D. Pollock, for applicant.

By the COMMISSION: This application involves the approval of a partnership agreement between K. Frank Henneken and Geo. D. Pollock, and the execution of a mortgage and note secured thereby.

By Decision No. 32935, dated March 26, 1940, in Application No. 22973, the Commission granted K. Frank Henneken a certificate of public convenience and necessity authorizing him to operate a public utility water system in the following tracts situate in and adjacent to the Community of Seaside, about 3 miles northeast of the city of Monterey:

East Monterey, Subdivision No. 1
Vista Del Rey Tract, Subdivision No. 6
Del Monte Hotel, Map 2, Subdivision No. 10
Grey Eagle Terrace, Subdivision No. 24

By said decision, the Commission also directed K. Frank Henneken to install certain improvements to his water system then being used to supply water to consumers in said area. The improvements have been made.

For the period from March 7, 1940, to December 31, 1940, K. Frank Henneken reports operating revenues of $3,019.85. His operating expenses, which included $391.12 for depreciation, amounted to $1,881.84, leaving a net income of $1,138.01. The number of consumers on the system increased from 160 in March, 1940, to about 350 at present.

[1] The testimony shows that on March 7, 1940, K. Frank Henneken and Geo. D. Pollock entered into a partnership agreement for the purpose of carrying on the public utility business of K. Frank Henneken at Seaside, Monterey county. They agreed to conduct the business under the fictitious name of East Monterey Water Service. The agreement provides for the sale by K. Frank Henneken to Geo. D. Pollock of an undivided one-half interest in and to all of the equipment of said East Monterey Water Service. It further provides that each partner is to own an equal one-half interest in all the pipe, equipment, and in both the real and personal property of said East Monterey Water Service. The agreement further provides that K. Frank Henneken shall be in charge of the business and that for his services he is to receive a monthly compensation of $100. No other sum shall be withdrawn by either partner until all the debts of the partnership have been paid. While each partner has the power to use the name of the firm and bind the same, in making contracts and purchasing goods, neither partner shall contract liabilities in the name and on the credit of the firm for amounts in excess of $50 without the consent of the other partner. The partnership agreement contains other provisions but it is not deemed necessary to call attention to them at this time.

We cannot conclude from the evidence submitted, that it is in the public interest to authorize the transfer of a one-half interest in the certificate of public convenience and necessity or to authorize the transfer of a one-half interest in the other utility properties owned by K. Frank Henneken, under the partnership agreement on file in this proceeding.

[2–4] The testimony shows that in order to install the improvements required by Decision No. 32935, dated March 26, 1940, it became necessary for K. Frank Henneken to borrow money. It is of record that he was unable to do so unless the notes issued by him were signed not only by himself but also by Geo. D. Pollock. To secure the payment of the notes a deed of trust was executed on April 11, 1940, to Salinas Title Guarantee Company, trustee. The deed of trust secures the payment of a $4,000 note issued on April 11, 1940, and secures the payment of any additional sums and interest thereon, thereafter loaned by Newton E. Collins and Esther Vance Collins, his wife, to K. Frank Henneken and Geo. D. Pollock. The $4,000 note issued to Newton E. Collins was dated April 11, 1940, and is payable in monthly instalments of $77.32, or more each on the 15th day of each and every month, beginning May 15, 1940. The monthly pay-

ments include interest at the rate of 6 per cent per annum. On May 15, 1940, K. Frank Henneken and Geo. D. Pollock issued to Newton E. Collins a note for $3,500, which is payable in monthly instalments of $70, or more each on the 15th day of each and every month, beginning November 15, 1940. On June 17, 1940, they issued to Newton E. Collins a note for $1,500 payable in monthly instalments of $30, or more each on the 15th day of each and every month, beginning November 15, 1940. The testimony further shows that all of the monthly payments have been made and that the principal of the three notes remaining unpaid is approximately $8,000. The deed of trust is a lien on nonutility property owned by K. Frank Henneken and purports to be a lien on the utility property owned by him. However, in view of the fact that the deed of trust was executed without permission from the Commission, it is, in our opinion, not a lien on the public utility property. The notes were issued without authorization from the Commission. Because of the language of § 52 of the Public Utilities Act, we think they are void. The Commission cannot approve void instruments.

The testimony further shows that the moneys realized through the issue of the notes were used for utility purposes. A copy of the deed of trust and a copy of the notes were filed with the Commission on May 22, 1941. We have no objection to the form of the deed of trust and the notes if they are executed pursuant to the authorization of the Commission.

The testimony further shows that K. Frank Henneken and Geo. D. Pollock are endeavoring to borrow additional funds for the purpose of paying the indebtedness due Newton E. Collins and to make further improvements on the water system. K. Frank Henneken requests that this Commission authorize a loan up to $20,000 to refinance, extend and improve the water properties. However, at the time of hearing, he was not in a position to submit the terms of any loan. The order herein, therefore, will be confined to the execution of a deed of trust to secure the payment of the money presently borrowed from Newton E. Collins, the issue of notes to said Newton E. Collins and a denial of the approval of the partnership agreement. If K. Frank Henneken is successful in refinancing the properties, he should file with the Commission a supplemental application for permission to execute a deed of trust and to issue a note or notes, and should in such supplemental application set forth the purposes for which the moneys will be expended.

Order

A public hearing having been held on the above-entitled application before Examiner Fankhauser, and the Commission having considered the evidence submitted at such hearing and it being of the opinion that it should not approve the partnership agreement filed in this proceeding, that it should authorize K. Frank Henneken to execute a deed of trust and to issue notes in the sum of not exceeding $9,000, that the money, property, or labor to be procured or paid for by K. Frank Henneken through the issue of said notes is reasonably required by applicant for the purposes herein

stated, and that the expenditures for said purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

It is hereby *ordered* as follows:

1. For the purpose of securing the payment of indebtedness, K. Frank Henneken may execute a deed of trust which will constitute a lien on his public utility properties, said deed of trust to be substantially in the same form as the deed of trust filed in this proceeding on May 22, 1941, provided that the authority herein granted is for the purpose of this proceeding only, and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

2. For the purpose of paying and refunding indebtedness due Newto E. Collins, K. Frank Henneken ma issue notes in the principal amount o not exceeding $9,000, said notes to b in substantially the same form as th notes filed in this proceeding on Ma 22, 1941.

3. The authority herein grante will become effective when K. Fran Henneken has paid the minimum fe prescribed by § 57 of the Public Utili ties Act, which minimum fee is $25.

4. K. Frank Henneken shall fil with the Railroad Commission within thirty days after the execution of the deed of trust and the issue of the notes herein authorized, a true and correct copy of said deed of trust and a true and correct copy of each of said notes.

5. This application in so far as it involves the approval of a partnership agreement is hereby denied without prejudice.

MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

Re Western Massachusetts Electric Company et al.

[D. P. U. 5834.]

Consolidation, merger, and sale, § 19 — Duties of Commission — Consistency with public interest.

1. The only duty incumbent upon the Department in passing upon a petition for approval of a consolidation of electric companies is to determine whether the consolidation and the terms thereof are consistent with the public interest; the Department is not directed to decide whether the public convenience or public necessity require or justify the consolidation, p. 57.

Consolidation, merger, and sale, § 22 — Grounds for approval — Economies — Single management.

2. Consolidation of electric utility companies with another such company, owning all the stock of the companies to be consolidated, should be approved where the companies have de facto been operating as a single unit

in many respects and there is no valid reason why they should not be permitted to operate de jure as a consolidated unit in all respects, while it appears that advantages will be gained in the purchase of supplies, repair and maintenance of plant and equipment, diminution of the number of reports and returns, more efficient use of joint facilities, better long-term financing, and, in general, a more efficient operation, p. 57.

Consolidation, merger, and sale, § 23 — Grounds for approval — Savings and advantages — Absence of rate reduction.

3. A public utility company is entitled to the benefit of savings and other advantages which will result from consolidation, and that is a consummation quite consistent with the public interest, even though savings may not be so large as to bring about a rate reduction, p. 57.

Accounting, § 43 — Separate units — Consolidated companies.

4. Accounts of consolidated companies should be kept as they were before the consolidation, except that reasonable apportionments may be made whenever necessary, subject at all times to the approval of the Department, where it appears that it requires different amounts of plant investment to return $1 of revenue for the different consolidated companies, p. 58.

Accounting, § 12.1 — Consolidated companies — Transfers to premium account.

5. An item entitled "surplus invested in plant" in the balance sheet of a company to be consolidated, representing a shrinkage in outstanding stock and premium accounts of companies previously consolidated, should, together with a similar account of another company to be consolidated, be transferred to the premium account of the newly consolidated company, to conform to established accounting practice and better to effect the segregation of accounts, p. 58.

[July 10, 1941.]

PETITION *for approval of consolidation of electric companies and for the issuance of shares of capital stock to be exchanged for stock of the consolidated company; granted subject to terms and conditions.*

APPEARANCES: W. R. Peabody, for all petitioners; Raymond T. King, for city of Springfield.

By the DEPARTMENT: On June 12, 1939, a joint application was filed in behalf of western Massachusetts Electric Company, United Electric Light Company, Pittsfield Electric Light Company, and Turners Falls Power and Electric Company for approval of the consolidation of the companies with the Western Massachusetts Electric Company and for approval of the issue of stock by the Western Massachusetts Electric Company with which to effect the consolidation.

The consolidation and issue of stock in accordance with the terms of a written agreement dated June 5, 1939, were authorized by the stockholders of all the companies by appropriate and adequate votes passed less than four months prior to the filing of the application, all in accordance with General Laws, Chap. 164, § 14, amended by Stat. 1935, Chap. 222, and §§ 96, 99, and 101 of said chap-

ter. The effective date of the consolidation, as provided in the written agreement between the companies, has been extended from time to time until December 31, 1941, by formal agreements of amendment authorized by votes of at least two-thirds in interest of the stockholders of each of the companies and appropriate amendments of the application have been made. Duly attested certificates of all of said votes of the stockholders of the company are on file with the Department.

Each of the companies is an "electric company" as defined in General Laws (Ter. Ed.) Chap. 164, § 1.

Pittsfield Electric Company and Turners Falls Power and Electric Company both have lines for the distribution of electricity in one or more municipalities which are contiguous to one or more municipalities in which Western Massachusetts Electric Company has lines for the distribution of electricity and Turners Falls Power and Electric Company has other lines for the distribution of electricity in certain municipalities in which Western Massachusetts Electric Company also has lines for the distribution of electricity. United Electric Light Company has lines for the distribution of electricity in municipalities which are contiguous to municipalities in which Pittsfield Electric Company also has distribution lines.

The agreement of consolidation, as amended with reference to the effective date, provides, subject to the approval of the Department, that the three other companies shall be simultaneously consolidated with Western Massachusetts Electric Company; that when the consolidation is effected and as a part thereof, Western Massachusetts Electric Company shall issue its capital stock, par for par, in exchange for the outstanding capital stocks of the other three companies. The amount of the additional stock which will be required for this purpose is 786,215 shares of the par value of $25 each.

The aggregate amount of the capital stock and the aggregate amount of the debt, respectively, of the consolidated companies will not be increased by reason of the consolidation. General Laws (Ter. Ed.) Chap. 164, § 99.

The 31,160 outstanding shares of the capital stock of the Pittsfield Electric Company of the par value of $100 each will be exchanged for 124,640 shares of the additional capital stock of the consolidated company of the par value of $25 each, or four shares for one, on account of the respective par values of the two stocks, and likewise the 110,000 outstanding shares of the capital stock of the Turners Falls Power and Electric Company of the par value of $100 each will be exchanged for 440,000 shares of the additional capital stock of the consolidated company. The 221,575 outstanding shares of the capital stock of the United Electric Light Company having a par value of $25 each will be exchanged for an equal number of shares of the additional capital stock of the Western Massachusetts Electric Company.

These proposed exchanges of capital stock make necessary the issue of 786,215 additional shares of the Western Massachusetts Electric Company for which approval is sought by the applicants. All of the stock of these companies is presently owned by

Western Massachusetts Companies, a voluntary association under a declaration of trust.

The facilities for furnishing and distributing electricity throughout the area affected will not be diminished by the consolidation and the terms of the consolidation are in our opinion consistent with the public interest.

With the consent of all parties, no action was taken on this petition following the closing of hearings, until an order was entered in the case of the petition of the mayor of the city of Springfield for a reduction in the rates, prices, and charges for electricity sold and delivered to the customers of the United Electric Light Company (D.P.U. 5943) which order was issued on June 16, 1941, 39 PUR(NS) 135.

[1–3] The statutes relating to the consolidation of electric companies are General Laws, Chap. 164, §§ 96–102, inclusive, and those relating to the issue of stock, including an issue for the purpose of effecting a consolidation, are §§ 14 and 99 of the same chapter.

When the petition was filed on June 12, 1939, § 96 authorized the consolidation of electric companies whose lines were in the same or contiguous municipalities if the terms of the consolidation were approved by votes of at least two-thirds in interest of the stockholders of each of the contracting parties and upon a determination by the Department, after notice and a public hearing, that the facilities for furnishing and distributing electricity would not thereby be diminished and that the consolidation and the terms thereof would be consistent with the public interest.

Shortly after the petition was filed, § 96 was revised by Stat. 1939, Chap. 229, § 1 which authorized the merger or consolidation of electric companies upon approval by the stockholders of the contracting parties and the sole duty of the Depa.tment was thereafter to determine that the consolidation and the terms thereof would be consistent with the public interest. The revised section eliminated the former restrictions relating to contiguity and the diminution of facilities for furnishing and distributing electricity. The importance of the revision of § 96 is not in its application to the facts in the case before us, because the petitioners have shown compliance with § 96 as in effect at the time of the filing of the petition and as revised, but rather that the policy of the law sanctions the consolidation of electric companies. The only duty now incumbent upon the Department is to determine whether the consolidation and the terms thereof are consistent with the public interest. We are not directed to decide whether the public convenience or public necessity require or justify the consolidation. The management and the stockholders of the company desire and have authorized the consolidation. They have complied with the legal prerequisites and an examination of all the evidence discloses nothing which can fairly be said to be inimical to the public interest.

It is quite true, as is conceded for the companies, that the immediate savings will not be so large as to effect a reduction in rates but they are sufficient to warrant the decision of the companies to consolidate. There will be one company instead of four,

and a single management. Advantages will be gained in the purchase of supplies, the repair and maintenance of plant and equipment, the diminution of the number of reports and returns, the more efficient use of joint facilities, better long-term financing, and in general, which is the immediate objective, a more efficient operation. These advantages are general but obvious. The companies have de facto been operating as a single unit in many respects and there is no valid reason why they should not be permitted to operate de jure as a consolidated unit in all respects. Even though the savings may not be so large as to bring about rate reductions the company is nevertheless entitled to the benefit of savings and the other advantages which will result from the consolidation and that is a consummation quite consistent with the public interest. Utility companies are charged with the duty of operating efficiently and economically, therefore, they should not be precluded from the performance of that duty simply because of a general but unfounded opposition to consolidations. The consolidation in our judgment will result in a strong and financially sound operating company in a position to furnish the people in contiguous areas excellent service at reasonable rates.

[4] The principal objection to the consolidation comes from the mayor of the city of Springfield and is to the effect that the city of Springfield may be called upon to pay higher rates because of the other communities within the area to be served with electricity by the consoldiated company. In this connection it is interesting to note that it requires approximately $4.10 of plant investment to return $1 of revenue for the United Electric Light Company, which serves the city of Springfield, approximately $3.90 of plant investment to produce $1 of revenue to the Western Massachusetts Electric Company and approximately $3.40 of plant investment to return $1 of revenue for the Pittsfield Electric Company. However, in order that the interests of the several communities presently served by the companies may be adequately safeguarded, the accounts of the consolidated companies should be kept as they were before the consolidation except that reasonable apportionments may be made whenever necessary, subject at all times to the approval of the Department. See Re Webster & Southbridge Gas & E. Co. D.P.U. 4813.

[5] In the decision of the Department dated December 10, 1937 (D.P.U. 5477) approving the consolidation of the Agawam Electric Company and the Ludlow Electric Light Company with the United Electric Light Company, there was a shrinkage in outstanding stock and premium accounts of said three companies amounting to $89,125 but this sum shows, however, in the balance sheet of the United Electric Light Company under an item entitled "Surplus Invested in Plant." This entry was made with the sanction of the Department. This amount, together with a similar account of the Pittsfield Electric Company amounting to $119,890, should now be transferred to the premium account of the consolidated company to conform to established accounting practice and to better effect the segregation of accounts contemplated in this decision.

Accordingly, after notice, a public hearing and consideration, the Department

Determines that the facilities for furnishing and distributing electricity will not be diminished by the consolidation of the United Electric Light Company, Pittsfield Electric Company, and Turners Falls Power and Electric Company with the Western Massachusetts Electric Company and that said consolidation and the terms thereof as set forth in the application and in the agreement of consolidation dated June 5, 1939, a copy of which agreement is on file with the Department, are consistent with the public interest; and

After notice, a public hearing and consideration, the Department

Votes: That the issue of 786,215 shares of additional capital stock of the par value of $25 each by the Western Massachusetts Electric Company is reasonably necessary for the purpose for which such issue of stock has been authorized; and it is

Ordered: That the Department hereby approves of the issue by the Western Massachusetts Electric Company, in conformity with all the provisions of law relating thereto, of 786,215 shares of additional capital stock of the par value of $25 each, said shares to be issued for the sole purpose of acquiring all the capital stock and all the assets and property of United Electric Light Company, Pittsfield Electric Company and Turners Falls Power and Electric Company as set forth in the application; and it is

Further ordered: That the premium accounts of all the companies be carried to the Western Massachusetts Electric Company's premium account; and it is

Further ordered: That the items now appearing in the United Electric Light Company's balance sheet as "Surplus Invested in Plant" amounting to $89,125, together with a similar account of the Pittsfield Electric Company amounting to $119,890 be transferred to the premium account of the Western Massachusetts Electric Company; and it is

Further ordered: That the property records and other accounting records and accounts of the consolidated Western Massachusetts Electric Company shall be so kept that all entries may be identified with the companies as they were before the consolidation, except that, subject at all times to the approval of the Department, reasonable and proper allocations may be made whenever necessary; and said records of the consolidated Western Massachusetts Electric Company shall be kept to the satisfaction of the Department.

WISCONSIN PUBLIC SERVICE COMMISSION

State Long Distance Telephone Company

v.

Floyd H. Lean

(2-U-1707.)

***Rates, § 545** — Telephones — Business classification at residence — Insurance advertising.*

A telephone subscriber should be classified as a business subscriber, under a filed regulation providing for business classification if the use is substantially of a business nature as indicated by persistent advertising of the telephone number and other facts, where the patron has advertised his business on two occasions and peg counts indicate a substantial use of the telephone for business purposes.

(WHITNEY, Commissioner, dissents.)

[July 22, 1941.]

PETITION *by telephone company for reclassification of service rendered to a patron; patron classified as a business subscriber.*

By the COMMISSION: The petition of the State Long Distance Telephone Company was filed March 28, 1941, for a reclassification of its telephone service rendered to Floyd H. Lean in the town of Lafayette, Walworth county (erroneously stated in the petition and notice as the town of Geneva).

Hearing: April 30, 1941 at Madison before Commissioner W. F. Whitney.

APPEARANCES: State Long Distance Telephone Company, by Alfred L. Godfrey, Attorney, Elkhorn, and Charles H. Wiswell, General Manager, Elkhorn; Floyd H. Lean, in his own behalf, Elkhorn.

Of the Commission staff; H. J. O'Leary and Kenneth J. Jackson, both of Rates and Research Department.

Floyd H. Lean is a resident of the town of Lafayette, Walworth county, and formerly lived at 213 North Church street, Elkhorn. In the fall of 1940 Mr. Lean moved from the city of Elkhorn to a farm on the outskirts of Elkhorn where he became a subscriber to the applicant's telephone system, with service to be rendered him as rural multiparty service. He had been an urban residential subscriber in the city of Elkhorn.

The State Long Distance Telephone Company has two classifications of rural multiparty service; namely, business and residential. Mr. Lean is an insurance agent but does not maintain an office.

Upon moving to the farm where he now resides, Mr. Lean caused to be inserted in the "Elkhorn Independent" of October 31, 1940, the following advertisement:

"My Insurance Agency
has been moved to Route No. 1 Elkhorn. I will continue to give my entire time to my Insurance business. If in need of Insurance
Phone Green 817
Please make note of this new number in your phone book.
Floyd H. Lean, Agency"

In the November 14, 1940, issue of the same paper he ran another advertisement as follows:

"For Sound Insurance
at
Saving of from 20% to 40%
Phone Green 817
Floyd H. Lean Agency"

On the basis of these advertisements the State Long Distance Telephone Company classified the Lean service as rural business, charging him the regularly filed gross rate of $2.75 as a rural business subscriber. The rural residential gross rate is $2.10. When Mr. Lean resided in Elkhorn, he conducted his insurance business from his residence and was there classified as a residence subscriber. When he moved to the country, he wished to retain his same number but the company informed him that it was impossible to give urban service at his new location, and rural multiparty service was the only service available. Mr. Lean testified that one reason for the advertisement was that the superintendent of the telephone company had informed him that there could be no correction of the telephone number in the directory until the spring of 1941 and he was desirous of immediately informing his friends of the change of number.

Prior to the hearing the applicant kept the record of the calls received and forwarded from the Lean residence from January 10, 1941, until the 18th of March, 1941. For that part of the month of January for which the record was kept, the telephone company's peg count shows a total of 82 business calls and 38 social calls. For the full month of February, there were 61 business and 40 social calls; for the period of March 1st to March 18th, inclusive, there were 44 business and 39 social calls.

The State Long Distance Telephone Company has on file with the Commission the following regulation:

"Application of Rates—Business and Residence Service

Determination as to whether subscriber's service furnished in a residence should be classified as business or residence will be based on the character of use made of the service. Service in a residence will be classified as business service where the use is substantially of a business, professional, or occupational nature. In determining whether a given use is substantially business in character, consideration will be given to the nature and scope of the business and to general

and persistent advertising of the telephone number. Where the business use, if any, is merely incidental the service will be classified as residence service."

Since the appearance of the advertisement the company has been billing Mr. Lean's service at the rural business rate. Lean has refused to pay that rate but has paid the rural residential rate, on the grounds that his present use is no different from his former urban use.

The petition herein results from an informal ruling of the Commission of January 8, 1941, contained in a letter to Mr. Wiswell. That ruling is as follows:

"The matter of proper classification of the telephone service of Mr. Floyd Lean has been referred to the Commission for consideration. The Commission does not feel that the two advertisements which recently have been placed by Mr. Lean necessarily constitute general and persistent advertising of the telephone number within the meaning of your rule concerning the application of rates.

"In view of the fact that the subscriber has previously been classified as a residential subscriber, and also in view of the fact that no other data have been presented by your company to show that there has been any material change in the substantial use of the service by the subscriber, the Commission is of the opinion that Mr. Lean should be classified as a residential subscriber provided that he agrees not to advertise his telephone number. However, the ruling at this time should not be construed as being one which would preclude the company from requesting a change in such classification upon the satisfactory showing that the character of the customer's use or service is of a business nature as defined in the company's filed rule."

Mr. Lean testified that because he was not aware that records were being kept of his calls, he was unable to substantiate the check and questioned its accuracy. At his request, therefore, it was arranged that both he and the telephone company were to keep a record of all "in" and "out" calls, inclusive of long-distance calls, for the month of May. This was done upon a form designed by our rates department. The record submitted by the telephone company showed that for the month of May, the applicant had 28 calls relating to his insurance business; 15 relating to his farm business; 13 relating to the household business; 50 social calls, and 57 miscellaneous. The miscellaneous includes failures to answer, busy numbers, wrong numbers, lodge and church business, checking on bus schedules, and similar calls.

On the other hand, Mr. Lean's check indicated the nature of each "in" and "out" call which he in turn classified as between insurance business and all other, although the record of each individual call shows the class of call; namely, whether it was for groceries, relating to lodge, farm, or church business, failures to answer, and "dates" of the younger members of the household. The calls recorded at the Lean home total 206, of which 49 related to the insurance business and 157 for all other purposes. This discrepancy is unexplained.

The testimony on hearing developed two reasons why this subscriber's

services should be classified as rural business; one, the patron failed to comply with the rule in that he advertised his business, and two, that all the peg counts indicate a substantial use of the telephone for business purposes.

The rate schedule of the company provides for one party rural magneto service for service on premises within 1½ miles of the city limits at $4 net per month on a yearly contract basis for a wall instrument. The correspondence which led to this petition indicates that such service was offered to Mr. Lean, that he agreed to this classification and rate, and that he was later informed that it was impossible to give it to him. The schedule for such rural service does not differentiate between business and residential service. It appears that it would be the logical service for this subscriber. Had Mr. Lean been accorded that service when he moved, this complaint would not have arisen. He once agreed to it and under the schedule is entitled to have it if he still desires it. The company is, of course, under obligation to furnish it should application be made.

The Commission finds:

That Floyd H. Lean is properly classified as a business subscriber.

ORDER

It is therefore *ordered:*

That State Long Distance Telephone Company be and is hereby authorized to classify Floyd H. Lean, a subscriber residing near Elkhorn, Walworth county, as a business subscriber and to charge rates in accordance with such classification as prescribed by the rates of said company on file with this Commission; provided, however, that upon request of said Floyd H. Lean that he be furnished with single party magneto service, the said State Long Distance Telephone Company is hereby required and directed to furnish such service at the rates prescribed therefor in the company's schedule of rates on file herein.

WHITNEY, Commissioner, dissenting: I dissent from the majority opinion in 2–U–1707, Application of the State Long Distance Telephone Company for Reclassification of Its Telephone Service to Floyd H. Lean, for the following reasons:

Page 5 of the opinion gives two reasons for classing this subscriber's service as "business"; one, Mr. Lean failed to comply with the company rule in his advertising on October 31st and on November 14, 1940; two, the peg counts indicate a "substantial" use of the telephone for business purposes.

1. As to advertising: The two advertisements were published by Mr. Lean in the Elkhorn paper immediately after changing his residence from the city to the country. In my opinion, running only these two advertisements does not constitute the "general and persistent advertising" as contemplated by the company rule set out at page 3 of the opinion.

2. As to a *substantial* use of the telephone for business service: The company rule is vague and indefinite. It does say that telephone service in a residence will be classified as *business service* where the use is "substantially" of a business or professional nature. The rule then attempts to define when a use is "substantially business in character" by saying that consideration

will be given to the nature of the business and to the general and persistent advertising of the telephone number.

Mr. Godfrey, attorney for the company, in interpreting the word "substantial" states that ". . . the majority of the use of the phone shall be the determining factor in whether or not a phone is or is not a business phone." Thus by the company's interpretation of its own rule, a *major* use of the telephone would be necessary before the telephone should be classed as a business telephone. To determine whether or not a "major" use of Mr. Lean's telephone was for business purposes, two peg counts were made. The first count of the months of January, February, and March was made by the company under orders from Mr. Wiswell and no notice was given to Mr. Lean; this count was entirely ex parte; it was known only to the company and not to Mr. Lean; it was made while Mr. Wiswell was in the south where he could make no day-to-day or week-to-week check; the question of whether or not Mr. Lean's conversations on the telephone were of a business nature was left to the judgment of telephone operators who had never before made a similar count. I discount the value of the January, February, and March count.

The second count was made for the month of May with notice beforehand to both parties. At the hearing I personally asked both Mr. Wiswell and Mr. Lean to be accurate and fair in making their independent May counts. The results of the May count are convincing. The company shows a total of 163 calls; 28 as insurance business calls; the balance of 135 as miscellaneous. Mr. Lean's May count shows a total of 206 calls; 49 as insurance calls; the balance of 157 as miscellaneous. It is convincing to me to note that when *each* party knew the other was being checked, Mr. Lean's count showed 49 business calls as against only 28 business calls by the company's check. Summarizing, of the total May calls the company's check shows 17 per cent as business calls; and Mr. Lean's check shows 23 per cent as business calls. In my opinion, these percentages are a long way from being either "substantial" or "major."

I agree that the patron, Mr. Lean, is entitled to the 1-party rural magneto service for which the company's rule provides and as expressed by the majority of the Commission.

Saves More Fuel
For Production

With fuel supplies uncertain, every steam saving you make by a more efficient heating system means added power to meet production demands.

Thermoliers Conserve Fuel Deliver More Useful Heat

nit heaters are *heat producing* machines d should be purchased on the same basis any other production machine . . . by heat tput, fuel economy, minimum maintenance d length of service.

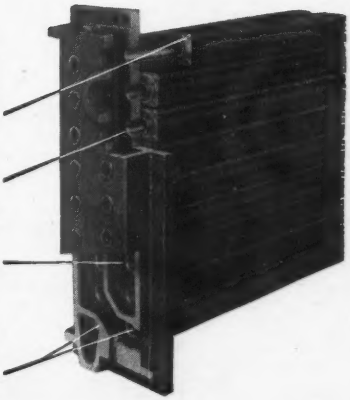
When measured by this impartial yard-ck, Grinnell Thermoliers take top place in ective, economical, service-free heating. veral construction features evolved by innell Engineers from their 50 years of cialized heating experience account for this periority. Ask any heating engineer about advantages of these construction features. Don't continue to waste fuel in inefficient ating systems; make every pound of steam iver more heat. Grinnell Thermoliers will it. Write for complete Data Book. Grinnell mpany, Inc., Executive Offices, Providence, ode Island. Branch offices in principal cities.

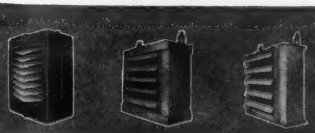
1 *Superior Fin Design* . . . square fins instead of round add 24% more radiating surface. Dirt and lint collection is reduced to a minimum.

2 *U-Shaped Tubes* and "condenser type" *tube-to-header construction* eliminates leakage, expansion strains and maintenance.

3 Positive *Built-in Drainage* . . . every tube is pitched for complete drainage.

4 Exclusive *Internal Cooling Leg* keeps *all* the heater working *all* the time, using only low cost traps. Eliminates need for external cooling piping.





GRINNELL THERMOLIER

THE UNIT HEATER WITH 14 POINTS OF SUPERIORITY

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

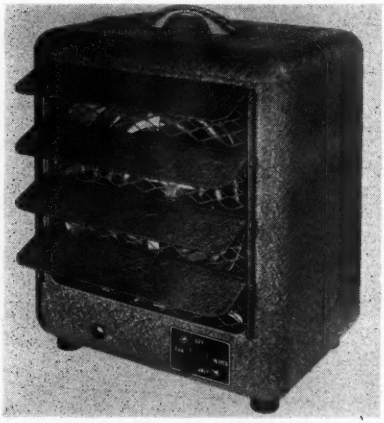
Industrial Progress

Selected information about manufacturers, new products, and new methods. Also news on utility expansion programs, personnel changes, recent and coming events.

Equipment Notes

Convection and Blower Type Unit Heaters

Edwin L. Wiegand Co., Pittsburgh, Pa., has announced a new, improved blower type heater, rated 1500 to 4000 watts, for operation on 115 or 230 volts, 60 cycle, a.c., and 115 or 230 volts, d.c. Chromalox Koilstrip heating elements are used in conjunction with quiet cadmium plated fan, driven by enclosed type electric motor, providing an air temperature rise of 32 to 75 degrees F., at an air velocity of 130 to 180 F.P.M., depending upon rating.



Type HF (Blower Unit Heater)

Designed for portable or permanent wall mounting, the heater has adjustable louvres and a gray crinkle lacquer finish. It is equipped with a manual control switch (except d.c.) and positive acting thermostatic switch in heater circuit for protection against overheating if normal temperatures are exceeded.

70 MASTER-LIGHTS

- *Electric Portable Hand Lights.*
- *Repair Car Spot and Searchlights.*
- *Emergency (Battery) Floodlights.*

CARPENTER MFG. CO.
179 Sidney St., Cambridge, Mass.
MASTER-LIGHT MAKERS

2300-Volt Starters

A new line of 2300-volt 60-cycle general purpose starters especially designed for protection against short circuits and overloads has been announced by the Industrial Control Division, General Electric Company, Schenectady, N. Y. Composed of an oil-immersed contactor with self-cleaning copper tips, wide metal bearings, and copper-braided shunts for long life, and the new EJ-2 current-limiting fuses for short circuit protection, the control and bus structure is completely metal-enclosed for compactness, easy installation, and safety.

There are four standard types of starters in this new line—providing for full-voltage starting, reduced-voltage starting, and reversing of squirrel-cage motors and synchronous motors. Starters for special applications are also available.

Guth Futurliter

New Guth luminaires, known as Guth Futurliters, have been developed by the Edwin F. Guth Co., St. Louis.

The Futurliters provide a permanent lighting system with flexible foot-candle capacity. Futurliter base or extension sections allow units or entire rows to be added to initial installations for additional light without disturbing the original system. To further increase illumination levels, a third row of lamps can be easily added to the original 2-40 watt Futurliters by inserting new ballast and lampholders.

Futurliters illuminants employ 300 deg. white reflectors to scientifically control the light. Construction permits direct ceiling illumination and provides 45 deg. lamp shielding with eggcrate louvres or 27½ deg. with open bottom. Futurliters may be ceiling or suspended mounted and installed individually or in continuous rows. Futurliters have handsome cast ends finished satin aluminum with polished highlights and are supplied for 2 or 3-40 watt fluorescent lamps.

New G-E Clocks Announced

Low-priced kitchen and alarm clocks and Westminster chime clocks in the higher cost bracket will feature the G-E line of clocks for the fall. C. R. Thorson, manager of clock sales, announced that the addition of the new models will make the most comprehensive line of clocks ever offered by the company.

A national magazine advertising program on the new line of clocks started in September and will carry through December.

Pioneering . . . an AMERICAN *Tradition*

★ America leads the world in industrial transportation and communications development, due to the American propensity to blaze new ways, find better methods.

True to its name, American throughout the years has continually endeavored to improve body design and construction; with the result that American has taken the lead in all-steel construction, the use of special steels to reduce weight, straight line design, radical departures in arranging spaces, carry materials, and many others. Continual improvements contribute to make American bodies excel in safety, efficiency, economy and appearance.

Write for literature.

THE AMERICAN COACH & BODY CO.

WOODLAND AVE. AT E. 93RD ST.,

CLEVELAND, OHIO

Standard Equipment for Public Utilities

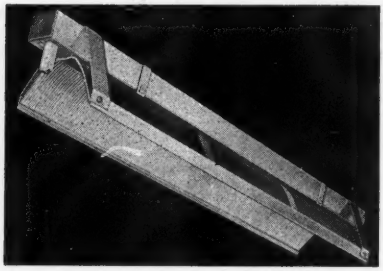
This page is reserved under the MSA PLAN *(Manufacturers Service Agreement)*

***Equipment Items** (Cont'd)*

The list of promotional items will again include the cut-out- "make-your-own" window displays, which were successfully used last year.

Fluorescent Permaflector

Permaflector No. T-11, recently introduced by Pittsburgh Reflector Co., is a new trough-type silver mirrored glass reflector specifically designed to efficiently control the light flux from fluorescent lamps. According to the



manufacturer, this series offers, for the first time, a standard reflector giving intense concentration of fluorescent light. Maximum candlepower occurs at 0°, thereby producing on the work plane an elongated strip of high intensity illumination. This strong throwing power of Permaflector No. T-11 provides new higher intensities at normal mounting heights and greatly extends the effective range of lighting with F Lamps. Higher mounting heights are now practicable. Permaflector No. T-11 may be used on any type of fluorescent application.

K-M Tel-A-Matic Iron

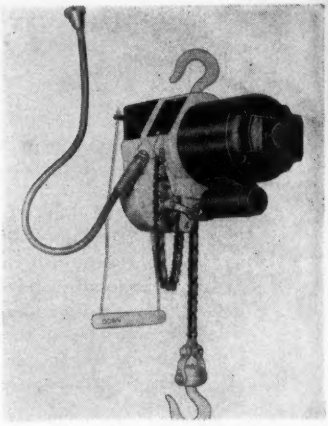
The Tel-A-Matic, one of the three new irons announced by the Knapp-Monarch Co., St. Louis, Missouri, features the heat control dial on which fabrics, instead of temperatures, are indicated. The Tel-A-Lite (A K-M feature on all three irons) in the moulded plastic handle glows when the iron is plugged in, goes out when the pre-selected ironing temperature has been reached. If, during ironing, a higher temperature is selected, Tel-A-Lite again glows until this degree is reached. If, during ironing, a lower temperature is chosen, Tel-A-Lite will wink when this degree is attained. Heavily chromium plated and trimmed with chrome, the Tel-A-Matic iron has an embedded element constructed under K-M's Dur-A-Life patent for long life and direct heat. A 10,000-cycle cord is permanently attached through a spring wire strain release. It is listed by Underwriters' Laboratories and retails for $8.95 (1,000 watts; a.c. only).

The other two irons, K-M Automatic iron Nos. 470-R and 421-R, which list at $7.95 and $5.95 respectively, incorporate all the tested features of the automatic iron in addition to the Tel-A-Lite and the fabric-temperature selector.

Motors Reverse Instantaneously

For use on cranes, hoists, lathes and many other industrial applications where instantaneous reversing is necessary, a new capacitor-start reversing motor is announced by Westinghouse Electric and Manufacturing Company.

Available in ratings of from ½ to ¾ horsepower, single phase 60 cycle, the motor operates at 1725 rpm on 115 and 230 volt circuits. To reduce maintenance, no brushes or commutators are used.

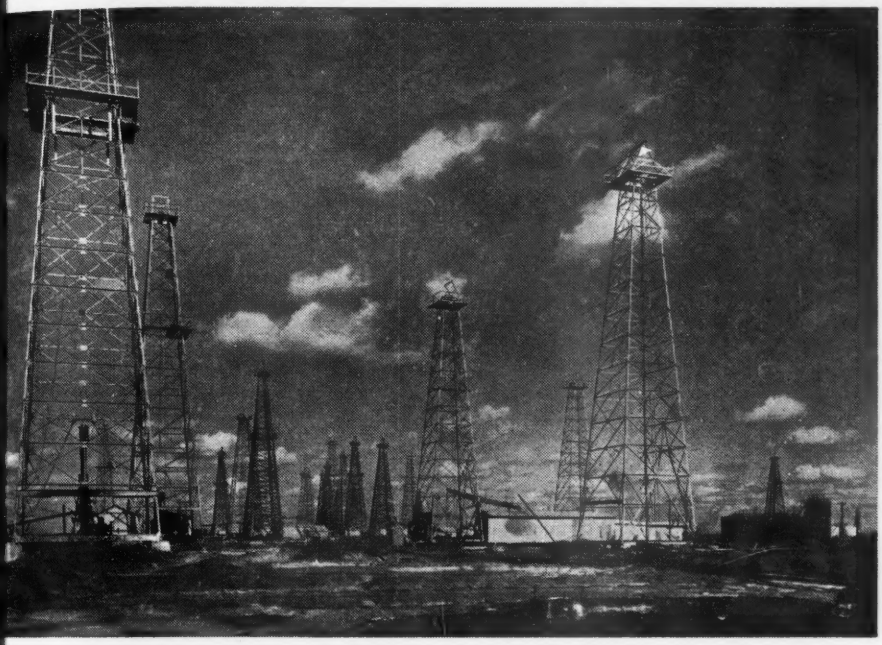


Reversing the motor requires a special centrifugal-starting switch with two contacts, a solenoid relay, and a resistor, all of which are furnished as a part of the motor. A drum switch must be provided separately to operate the motor.

G-E Adds Small Radios for 1941-2

The General Electric radio and television department, Bridgeport, Conn., has announced 19 new receivers for 1941-2, of which 18 are table models and one a console. These, with one other table model, a table-type radio-phonograph combination, and ten battery-portables announced earlier, make up the new G-E "L"

DICKE TOOL CO., Inc.
DOWNERS GROVE, ILL.
Manufacturers of
Pole Line Construction Tools
They're Built for Hard Work



NATIONAL DEFENSE NEEDS MORE THAN "ELBOW GREASE!"

Industrial lubrication, as exemplified by the role of Cities Service, plays a vital part

Lifeblood of the factory line is the precious oil that keeps the wheels of industry turning . . . spinning ever faster and faster as tanks, ships, planes and trucks spring from blueprints into cold steel.

In many phases of national defense, Cities Service's industrial oils have been called upon to help deliver maximum efficiency of operation.

We are honored by our selection, feeling that it indicates more plainly than words that we are qualified to meet the lubrication problems of industry. The vast experience of our Lubrication Engineers is available for consultation without cost. All you have to do is get in touch with us at any of the offices listed below.

CITIES SERVICE OILS — ONCE-ALWAYS

CITIES SERVICE OIL COMPANIES

CITIES SERVICE OIL COMPANY — Chicago, New York, Cedar Rapids, Boston, St. Paul, Grand Forks, Kansas City, Fort Worth, Oklahoma City, Milwaukee, Cleveland, Detroit, Syracuse.

CITIES SERVICE OIL COMPANY, LTD. — Toronto, Ontario.

ARKANSAS FUEL OIL COMPANY — Shreveport, Little Rock, Jackson, Miss., Birmingham, Atlanta, Charlotte, N. C., Nashville, Richmond, Miami.

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

***Equipment Items* (*Cont'd*)**

line to date. A. A. Brandt, sales manager, has announced that a half-dozen additional small sets, two consoles, and several radio-phonograph combinations will be introduced later. The latter group will include General Electric's new frequency-modulation equipment.

In announcing the large addition of small units, the company points out that the small radio receiver, or "extra set," currently presents users with a most logical and enjoyable extension of radio services and dealers with a great profit opportunity.

Catalogs and Bulletins

Hygrade Issues New House Organ To Electrical Trade

Hygrade Sylvania Corporation launched in September the first issue of "Hygrade Lighting News," a new house organ for the electrical trade.

This new publication is an attractive 8-page, two color, 8½ x11 folder, consisting of four pages of news and promotional items and four pages of technical material of an informational nature.

"Hygrade Lighting News" will be mailed regularly each month to a list of approximately 30,000 names. Its theme will be "what's new in lighting," and it will contain news and technical data on both fluorescent and incandescent lighting.

Goodrich Publishes Catalog on Ameripol D

The B. F. Goodrich Company has just published an 8-page illustrated catalog section on its Ameripol D synthetic rubber, used in making mechanical rubber products.

The folder discusses in detail its properties, hardness, tensile strength, elongation, weight, color, odor and taste, elasticity and permanent set, tear and abrasion resistance, and resistance to flexing, oils and solvents and heat.

The first of four tables compares the properties of Ameripol in 33 specific respects starting with "workability" and ending with "resistance to paint and ink dryers" with natural rubber and two other types of synthetic rubber, giving the rating of each in the various categories.

The second table lists the properties of typical Ameripol D vulcanized compounds, including Shore durometer hardness, percentage of elongation at break, modulus at 300 per cent elongation, ultimate tensile strength, rebound elasticity, compression set and abrasion resistance index. It also lists the results on each type of compound of 48 hours immersion in fluids which have a solvenizing effect on natural rubber, ranging from hexane to light penetrating oil.

Table three gives the per cent volume increase after 48 hours immersion of natural rubber and two other types of synthetic rubber, as compared to Ameripol D, while the fourth table is a rough guide to determine the service where the use of Ameripol D is practical.

Ameripol D was developed in The B. F. Goodrich laboratories by Dr. Waldo L. Semon, by an exclusive polymerization process from butadiene. Its basic material is petroleum.

Describes Materials Handling Equipment

For use in central stations, construction projects, and industrial plants, electric motors and controls for cranes, hoists, and gantry bridges are described in a new 20-page booklet announced by Westinghouse Electric and Manufacturing Company.

Features of a-c and d-c motors up to 600 horsepower for typical materials handling operations are discussed with a note on gear motor applications. Controllers, protective devices, and methods of motor braking are described and illustrated.

A 2-page application chart facilitates the selection of motors and control for typical materials handling operations as found in steel mills, central stations, construction projects, and industrial plants.

A copy of booklet B-2264 may be secured from department 7-N-20, Westinghouse Electric and Manufacturing Company, East Pittsburgh, Pa.

Service Bulletins

In order to serve the growing need for up-to-date technical information, Aluminum Company of America is now issuing a series of service bulletins, which will give national defense industries the advantage of the most recent work of the company's technical departments.

Aluminum Service Bulletin No.1 lists 100 references on aluminum of special interest to manufacturers of defense materials.

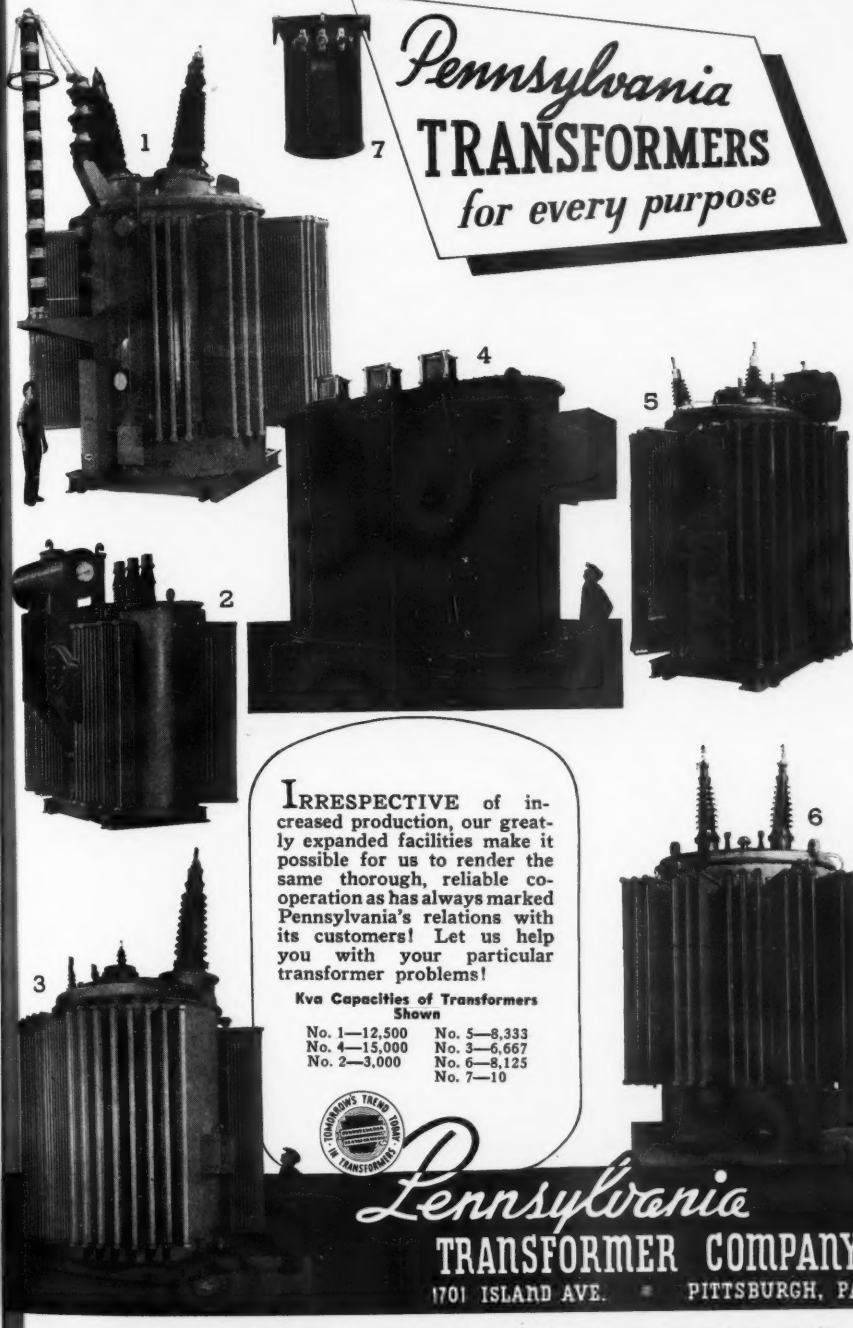
This expansion in service is part of the company's plan to be of the greatest possible help during the present emergency. It follows naturally the $200,000,000 self-financed production expansion program now nearing completion.

Christmas Tree Lighting Booklet

A new era in Christmas tree lighting and trimming is described in a bulletin entitled "The Electrical Wonder of 1941," issued by J. M. Gordon & Co., Inc., 189 Greene St., New York City.

The booklet introduces the Fluor-Glo Tree

MARTENS & STORMOEN
successors to
THONER & MARTENS
Disconnecting and Heavy Duty Switches
15 Hathaway St., Boston, Mass.



IRRESPECTIVE of increased production, our greatly expanded facilities make it possible for us to render the same thorough, reliable cooperation as has always marked Pennsylvania's relations with its customers! Let us help you with your particular transformer problems!

Kva Capacities of Transformers Shown

No. 1—12,500 No. 5—8,333
No. 4—15,000 No. 3—6,667
No. 2—3,000 No. 6—8,125
No. 7—10

TOMORROW'S TREND TODAY IN TRANSFORMERS

Pennsylvania
TRANSFORMER COMPANY
1701 ISLAND AVE. PITTSBURGH, PA.

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Catalogs and Bulletins (Cont'd)

—an illuminated Christmas tree without an electric bulb on it. Illumination is accomplished by focusing a "black light" electric unit on the tree, which is trimmed with plastic (fluorescent Lumarith) ornaments which glow as if there were bulbs on the inside. The "black light" is composed of near ultra violet light, is harmless and non-irritating and at the same time invisible. The lighting unit is made in two sizes—100 watt unit, burning life, 1,000 hours, price $31.75 each and 250 watt unit, 1,000 hours, price $59.50 each.

G-E Communication System Bulletin

An illustrated bulletin (GEA-3570) on FM Police and Utility Radio has been issued by the Radio and Television Department, General Electric Co., Schenectady, N. Y. The new bulletin reports on how this new communication system is succeeding in three typical installations.

CP Range Campaign Book

A new and unusual theme for the promotion of CP (Certified Performance) gas ranges will be introduced in the fall sales promotion campaign, now in the mails to thousands of gas utility executives and dealer merchandisers throughout the United States and Canada, it was announced by the CP sales management committee of the association of Gas Appliance and Equipment Manufacturers.

Using the interesting story book technique, while at the same time presenting in forceful and captivating style the CP merchandising story, both from the utility and dealer sales viewpoint, the campaign is considered one of the most novel and extraordinary direct mail promotions of its kind ever produced.

As a dramatic climax, the campaign portfolio contains an actual recording with a stirring and timely message to the gas industry from Lowell Thomas, the famous news analyst and commentator.

Measuring 8½ x 11 in., the book is produced in four colors on heavy stock and is bound with plastic rings.

Manufacturers' Notes

Devoe & Raynolds Promotes M. W. Lightcap

Milton W. Lightcap, in charge of maintenance sales for the Devoe & Raynolds Co., Inc., has been appointed sales manager of the newly created painter and maintenance division.

Before joining Devoe & Raynolds a year ago, Mr. Lightcap was head of Pittsburgh Plate Glass Company's maintenance division.

G-E Promotes T. G. Glenn

Truman G. Glenn, formerly assistant district engineer in the General Electric Company's central district, has been appointed engineer of the Detroit office, according to an announcement by W. O. Batchelder, commercial vice president. Mr. Glenn succeeds Thomas E. Nicoll, who retires October 1st of this year under the company's pension plan, after more than thirty-eight years with the company.

Mr. Glenn, a graduate of the University of Wisconsin, joined the General Electric Company as a student in the Test Course in 1922. He became assistant district engineer in 1930.

Kotal Adds Distributors

To facilitate the distribution of Kotal, an effective anti-stripping and waterproofing agent permitting asphalt mixes to be spread on wet roadbeds of stone or other "aggregate" during any season of the year, the manufacturer, The Asphalt Treatment Corporation, New York, has appointed a number of distributors in Rhode Island, Connecticut, New York, Pennsylvania, Maryland and Illinois.

The product is now used extensively by state highway departments and utilities in road mix, plant mix, penetration and surface treatment work.

Fluorescent Lighting Conference Held by Hygrade Sylvania

Over forty utility lighting engineers and electrical trade paper editors attended a Fluorescent Lighting Conference sponsored by Hygrade Sylvania Corporation at Salem, Mass., September 8th and 9th.

Lighting engineers were present from the Metropolitan New York, Philadelphia, Buffalo, Connecticut, and Washington, D. C. Districts.

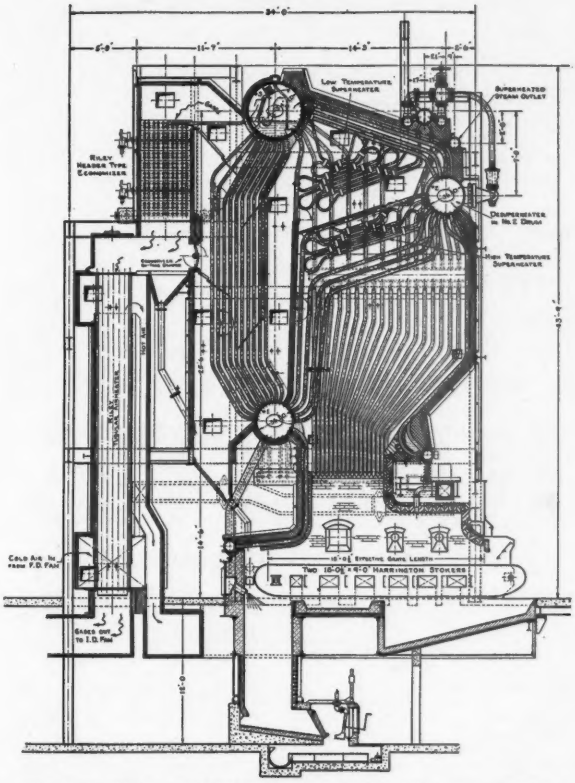
The program included the following papers which were given by members of Hygrade's staff: "The Future of Fluorescent Lighting," by Dr. R. M. Zabel, manager of manufacturing and engineering; "Fluorescent Lighting Applications," by William P. Lowell, Jr., head of commercial engineering dept.; "Design Trends in Fluorescent Luminaries," by C. W. Haller, chief design engineer; "Building Lighting Loads," by D. P. Caverly, commercial engineer; "Fluorescent Starters, Sockets, Auxiliaries," by H. Reinhardt, commercial engineer; "High Voltage Fluorescent Tubing," by W. F. Rooney, sales engineer on Hygrade high voltage tubing; and "Fluorescent Research," by James L. Cox, head of fluorescent engineering dept., Dr. Lowry, fluorescent engineering, O. H. Biggs, head of research engineering dept. and D. Coggins, Hygrade research engineering dept.

Following the talks there were question and answer periods in which many interesting discussions developed on technical points. The exchange of views between the various utility engineers present in connection with the proper design and application of fluorescent lighting equipment proved very informative as well as interesting.

This was the second in a series of Fluorescent Lighting Conferences being held under the sponsorship of the Hygrade Sylvania Corporation with utility lighting engineers.

RILEY STEAM GENERATING UNIT

Outstanding American Lignite Burning Installation



OTTER TAIL POWER COMPANY, Wahpeton, N. D.

130,000 lbs. steam/hour, 650 lbs. design pressure, 825° F steam temp. Unit burns North Dakota Lignite at 82% Efficiency.

Riley Boiler, Superheater, Steam-temperature Control, Economizer, Air Heater, Water Cooled Furnace, Steel Clad Setting, Riley Harrington Stoker.

RILEY STOKER CORPORATION

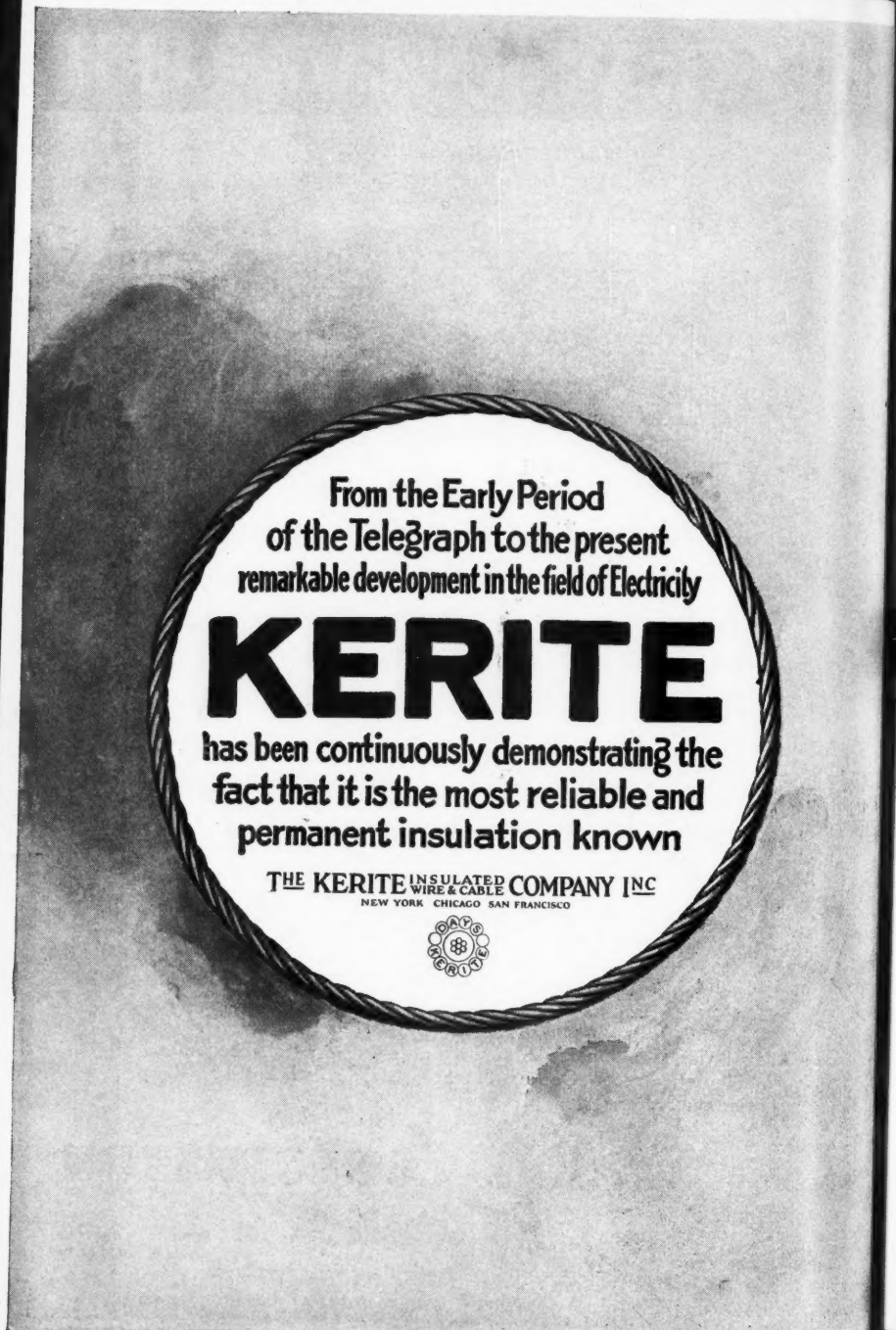
WORCESTER, MASS.

BOSTON NEW YORK PHILADELPHIA PITTSBURGH BUFFALO CLEVELAND DETROIT SEATTLE
ST. LOUIS CINCINNATI HOUSTON CHICAGO ST. PAUL KANSAS CITY LOS ANGELES ATLANTA

COMPLETE STEAM GENERATING UNITS

BOILERS - SUPERHEATERS - AIR HEATERS - ECONOMIZERS - WATER-COOLED FURNACES
PULVERIZERS - BURNERS - MECHANICAL STOKERS - STEEL-CLAD INSULATED SETTINGS

This page is reserved under the MSA PLAN *(Manufacturers Service Agreement)*



This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Low Cost Per M

Connelly IRON SPONGE

HERE'S the money-saving answer to your purification problems—Connelly IRON SPONGE—a patented product of extra high capacity, guaranteed to meet every purification requirement efficiently and economically.

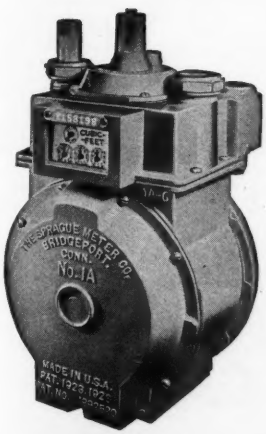
Made in U.S.A. 100% American materials

Thruout the country, in hundreds of plants, Connelly Iron Sponge has demonstrated not only its exceptionally low cost per 1,000 feet of gas purified, but its amazingly low maintenance cost as well.

For more than 64 years Connelly has been solving purification problems and cutting purifying costs. Consult us today. There's no cost or obligation.

CONNELLY IRON SPONGE AND GOVERNOR COMPANY • CHICAGO, ILLINOIS ELIZABETH, N. J.

SPRAGUE COMBINATION METER-REGULATOR



LATEST ACHIEVEMENT
IN
GAS MEASUREMENT AND
CONTROL.

For Manufactured, Natural and Butane Service

Write for bulletin.

THE SPRAGUE METER CO.
Bridgeport, Conn.

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

CRESCENT

IMPERIAL PORTABLE AND IMPERIAL WELDING CABLES

are doing their part in speeding up the defense effort. Covered with a TOUGH tire-tread jacket of highest quality mold-cured rubber, these cables are being increasingly used on welding jobs and for other work where tough, flexible cables are required.

CRESCENT INSULATED WIRE & CABLE CO.

CRESCENT
WIRE and CABLE
Factory: TRENTON, N. J.—*Stocks in Principal Cities*

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

150,000 HP Francis Turbine for Grand Coulee Project

(SHOP HYDROSTATIC TEST—230 LB. PER SQ. IN.)

HYDRAULIC TURBINES
FRANCIS AND HIGH SPEED
RUNNERS
BUTTERFLY VALVES
POWER OPERATED RACK RAKES
GATES AND GATE HOISTS
ELECTRICALLY WELDED RACKS

Newport News Shipbuilding and Dry Dock Company
(Hydraulic Turbine Division)
Newport News, Virginia

This page is reserved under the* MSA PLAN *(Manufacturers Service Agreement)

How to solve the problems of ELECTRIC DISTRIBUTION

This handy manual presents essential data, factors, tables and diagrams for practical application by all who are concerned with the planning, design, construction, operation, maintenance, inspection and supervision of the electric distribution system.

ELECTRIC DISTRIBUTION FUNDAMENTALS

By Frank Sanford

Distribution Engineer, Cincinnati Gas & Electric Co.

242 pages, 156 illustrations
15 tables, 1 chart, $2.50

Covering the ABC of electric distribution—of both the utility distribution, and the industrial and inside wiring branches of service to the outlet—this book explains the everyday problems involved in distributing electrical energy anywhere between the major substations and the customers' meters.

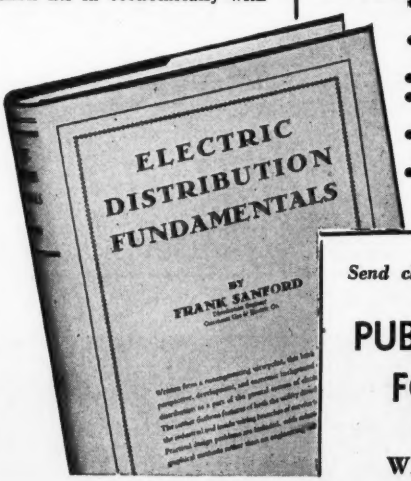
COVERS ALL STEPS

From a nonengineering viewpoint it discusses how the distribution system works; how it is planned, designed and constructed; how service and operating routine is handled; elementary principles of methods and equipment; basic factors of the electric circuit; methods of generation; selection, application and design of transformers; design of carrying lines; problems of maintaining current flow; mechanical principles and strength of materials; how distribution fits in economically with the electric supply system as a whole; etc.

Step by step explanations cover voltage drop, wire size calculations, transformer connections, power factor improvement, inductive reactance, and similar problems.

EASILY UNDERSTOOD

Practical design problems are included with solutions based on diagrams instead of difficult mathematics. Numerous illustrations, diagrams and tables will be found helpful for a quick and complete understanding of the fundamentals.



TREATS:

—design and construction
—operation and service
—methods and equipment
—mechanics and materials

THESE CROWDED CHAPTERS BRING YOU PRACTICAL, HELPFUL DATA

- **Perspective of the Electric System**
- **Distribution to Serve the Load**
- **The Distribution Division**
- **Generation of Electricity**
- **Fundamentals of the Electric Circuit**
- **Inductance and Related Characteristics**
- **Tools for Electrical Problems**
- **Transformers**
- **Transformer Connections**
- **Voltage Control**
- **Current Interrupting Equipment**
- **Voltage Protection — Lightning—Grounding**
- **Street Lighting Circuits**
- **Mechanical Principles in Distribution**
- **Economic Principles in Distribution**
- **Measures of Service**

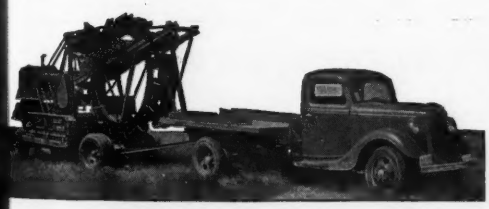
Send check, money-order or cash

PUBLIC UTILITIES FORTNIGHTLY

MUNSEY BLDG.
WASHINGTON, D. C.

"Go to Town" with "CLEVELANDS"

"Clevelands" special Trailers give truck-speed transportation at Low Cost. Machines load and unload on Trailers in 10 to 15 minutes.



Dig Anywhere—Anytime

WATCH YOUR COSTS GO DOWN

Every day, more Public Utilities are realizing that "Clevelands" are setting a new high in Ditching Performance.

They like the compactness and mobility of "Clevelands"—their modern, dependable construction which eliminates dead weight and increases effectiveness.

They respect their speed and the way "Clevelands" have come through for them on difficult jobs for "Clevelands" have definitely *saved them money* on their ditching.

You, too, can "go to town" with "Clevelands." Let us tell you how and why. There is no obligation.

THE CLEVELAND TRENCHER COMPANY

"Pioneer of the Small Trencher"

20100 St. Clair Avenue
Cleveland, Ohio

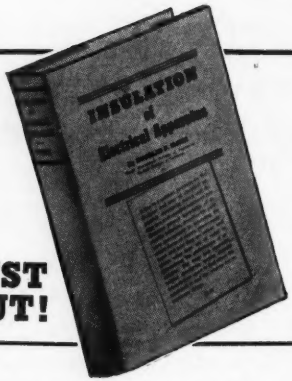
CLEVELANDS

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Now... *the complete, one-volume key to the engineering essentials of*

INSULATION

—kinds, applications, testing, theory



JUST OUT!

HERE is a new and helpful guide for all concerned with the design and use of electrical apparatus—a book that covers all aspects of its insulation—concisely reviews the theory—describes and compares the materials—and gives complete details of the insulation problems present in all types of electrical apparatus and how they are solved.

INSULATION OF ELECTRICAL APPARATUS

By Douglas F. Miner

George Westinghouse Professor of Engineering
Carnegie Institute of Technology

450 pages, 6 x 9, 306 illustrations, $5.00

This book bridges the gap between the more theoretical treatments of dielectric phenomena and the needs of engineers and designers for data on present-day insulation practices.

From it the reader can get everything necessary to an intelligent approach to insulation problems—a correlation of the theoretical and the practical—plus many facts and data to help in design or selection of electrical apparatus.

The section on applications is presented in great detail—covers many specific types of apparatus, breaking each one down to show every insulation requirement and best practices in handling it.

This book will help

DESIGNERS of electrical equipment

ENGINEERS in mechanical, chemical, or other fields who need to know something about insulation of electrical apparatus

MAINTENANCE and REPAIR MEN who want to know more of the reasons back of their work

PURCHASERS of electrical equipment who need to know how to detect quality or lack of it and what to put into specifications

18 full, explicit, authoritative chapters cover:

1. Dielectric Phenomena
2. Theories of Dielectric Behavior
3. Factors Affecting Dielectric Behavior
4. Insulating Materials
5. Industrial Motors and Generators
6. Large Rotating Machines
7. Control Apparatus
8. Transformers and Reactors
9. Circuit-breaker Principles
10. Circuit-breaker Constructions
11. Transmission-line Insulators
12. Lightning Arresters
13. Capacitors
14. Heating Appliances
15. Lamps and Tubes
16. Meters, Instruments, and Relays
17. Insulating Testing
18. High-voltage Testing Equipment

USE THIS CONVENIENT ORDER COUPON

PUBLIC UTILITIES FORTNIGHTLY
Munsey Building, Washington, D. C.

Please send me a copy of Miner's INSULATION OF ELECTRICAL APPARATUS postpaid. I enclose $5.00 in check..... money order..... cash.....

Name .....

Address .....

City and State .....

Let your Waste Basket show where you can SAVE!

You wouldn't deliberately throw 700 heets of carbon paper into the waste basket, would you? Yet, that's exactly what you do hen you write 175 sets of average five-part orms interleaved with one-time carbons! That's nnecessary waste because the same number of orms could be written with only 4 sheets of arbon if you equip your typewriters with Egry

SPEED-FEED

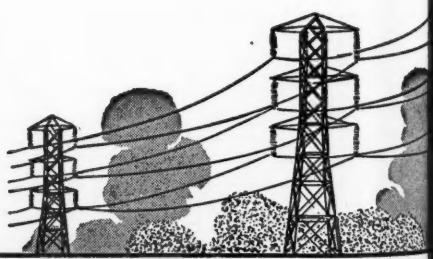
ut more than that—the Speed-Feed makes l the time of the operator productive and eps up the daily output of typed forms % and more! Don't lose any time in- stigating the many advantages of the Egry peed-Feed. Consult classified telephone irectory for name of local Egry sales agent write Dayton. Demonstrations ar- nged without cost or obligation. terature on request. Address Dept. 109.

The EGRY REGISTER Company
Dayton, Ohio
SALES AGENCIES IN ALL PRINCIPAL CITIES

The Egry Register Co. (Canada) Ltd., King and Dufferin Streets, Toronto, Ontario, Canada

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Transmission line construction costs can be materially reduced and completion expedited by using Hoosier Crews



HOOSIER ENGINEERING COMPANY

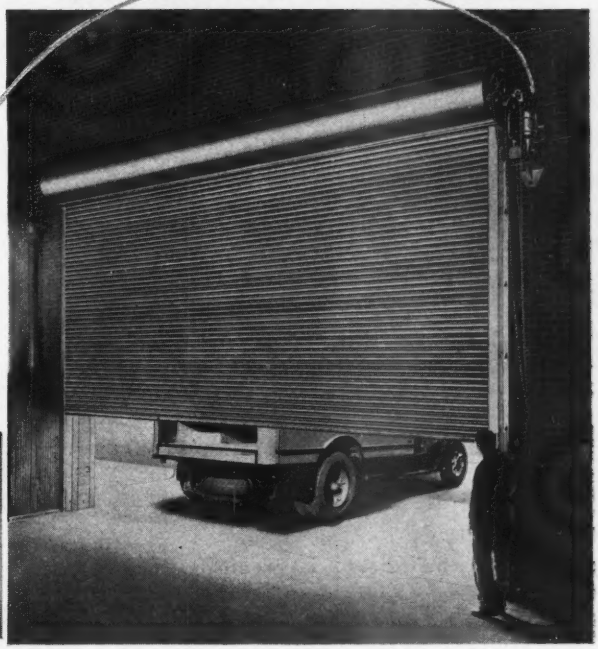
CHICAGO — 46 SO. 5TH ST., COLUMBUS, OHIO — NEW YORK

Canadian Hoosier Engineering Company, Ltd.
Montreal

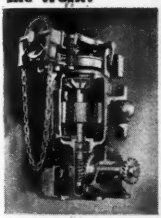
ERECTORS OF TRANSMISSION LINES

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

OPERATE YOUR DOORS FROM *ANY REMOTE POINT!*



The rugged Kinnear Motor Operator Does the Work!



You can speed up traffic, step up efficiency, and boost savings in labor-time in your plant with doors that can be opened from any number of convenient points! And Kinnear Rolling Doors have many other advantages. They open upward, saving valuable floor, wall and ceiling space, and staying out of reach of damage. Their rugged, all-steel, interlocking-slat construction has proved its remarkably long life and low maintenance — and it gives you extra protection against fire, intrusion, sabotage, wind, weather and accidental damage. Built any size, to meet any service door requirement in old or new buildings. Write for details or recommendations. Send for Catalog!

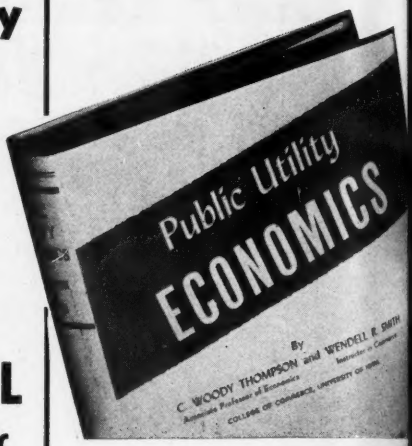
The KINNEAR MFG. CO.
2060-80 FIELDS AVE., COLUMBUS, OHIO

SAVING WAYS IN DOORWAYS **KINNEAR ROLLING DOORS**

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*

Are you KEEPING POSTED on public utility developments?

Do you know how the latest developments and changes affect the public utilities' place in our economic structure? Now you can get a *clear, understandable* picture, for



THIS NEW BOOK ➡ GIVES YOU A FULL AND FRESH APPRAISAL

of problems confronting public utilities today—

This book is designed to show the place which public utilities occupy within our economic structure and the special problems of price control service supervision, security regulation, etc., which the march of events since 1933 has brought about.

Accepting the dominance of private ownership in all fields but water supply, the book is primarily an illustration of institutional economics. The book draws upon the literature of 47 state and four federal commissions, one federal and 48 state judicial system, as well as many trade and semiofficial organizations.

Just published!

PUBLIC UTILITY ECONOMICS

By C. Woody Thompson
Associate Professor of Economics
and Wendell R. Smith
Instructor in Commerce, State University of Iowa

726 pages, 6 x 9, illustrated, $4.50

Answers your questions on:—

- **Public Utility Organization and Finance**
- **Techniques of Regulation**
- **The Problem of Reasonable Rates**
- **Rate Making Theory and Practice**
- **The Marketing of Utility Service**
- **The Tennessee Valley Authority**
- **The Problem of Security Regulation**

USE THIS CONVENIENT ORDER COUPON

Public Utilities Fortnightly
Munsey Building, Washington, D. C.

Please send me a copy of Thompson and Smith's PUBLIC UTILITY ECONOMICS postpaid. I enclose $4.50 in

☐ check ☐ money order ☐ cash

Name .....

Address .....

City and State .....

Power speaks louder than words

NOW—

115 *horsepower*
IN 1½-TON DODGE TRUCKS

120 *horsepower*
IN 1½-TON SPECIAL

PLENTY OF POWER—in a truck that *fits the job*—means *extra* performance, *extra* dependability, *economical* operation and *extra long life!*

That's the kind of truck *you* want and *need* today—and that's the kind you get when you get the *right* Dodge *Job-Rated* truck to *fit your job.* See your Dodge dealer . . . *today!*

Prices and specifications subject to change without notice.

Better BECAUSE OF CHRYSLER CORPORATION ENGINEERING

DEPEND ON

DODGE *Job-Rated* **TRUCKS**

DGE PRODUCTS FOR NATIONAL DEFENSE:
mand Reconnaissance Cars • Field Radio Cars
oop and Cargo Motor Transports • Weapon
iers • Army Carry-Alls • Ambulances • Dura-
n Forgings for Bomber Fuselages • Parts and
Assemblies for Anti-Aircraft Cannons.

PROFESSIONAL DIRECTORY

• This Directory is reserved for engineers, accountants, rate experts and others equipped to serve utilities in all matters relating to rate questions, appraisals, valuations, special reports, investigations, design and construction.

THE AMERICAN APPRAISAL COMPANY
INVESTIGATIONS, APPRAISALS AND STUDIES
for
ACCOUNTING AND REGULATORY REQUIREMENTS
NEW YORK WASHINGTON CHICAGO MILWAUKEE SAN FRANCISCO
and other principal cities

DAY & ZIMMERMANN, INC.
ENGINEERS
NEW YORK PHILADELPHIA CHICAGO
PACKARD BUILDING

DESIGN
CONSTRUCTION
OPERATING COSTS
Ford, Bacon & Davis, Inc.
Engineers
RATE CASES
APPRAISALS
INTANGIBLES
VALUATIONS AND REPORTS
NEW YORK PHILADELPHIA WASHINGTON CLEVELAND CHICAGO

J. H. MANNING & COMPANY
120 Broadway New York — *ENGINEERS* — Field Building Chicago
Business Studies
New Projects
Consulting Engineering
Purchase—Sales Management
Valuations
Reorganizations
Mergers
Public Utility Affairs including Integration

SANDERSON & PORTER
ENGINEERS AND CONTRACTORS
Design and Construction of Industrials and Public Utilities.
Reports and Appraisals in Connection With Management Problems, Financing, Reorganization.
Chicago New York San Francisco

Sargent & Lundy
ENGINEERS
Steam and Electric Plants
Utilities—Industrials
Studies—Reports—Design—Supervision
Chicago

PROFESSIONAL DIRECTORY (*continued*)

STONE & WEBSTER ENGINEERING CORPORATION
DESIGN AND CONSTRUCTION
REPORTS • EXAMINATIONS • APPRAISALS
CONSULTING ENGINEERING
BOSTON • NEW YORK • CHICAGO • PITTSBURGH • SAN FRANCISCO • LOS ANGELES

BARKER & WHEELER, ENGINEERS
DESIGNS AND CONSTRUCTION — OPERATING BETTERMENTS — COMPLETE OFFICE SYSTEMS — MANAGEMENT — APPRAISALS — RATES
11 PARK PLACE, NEW YORK CITY
36 STATE STREET, ALBANY, N. Y.

FRANCIS S. HABERLY
ENGINEER
Appraisals—Original Cost Accounting—Rates—Depreciation—Trends
122 SOUTH MICHIGAN AVENUE, CHICAGO

BLACK & VEATCH
CONSULTING ENGINEERS
Appraisals, investigations and reports, design and supervision of construction of Public Utility Properties
4706 BROADWAY KANSAS CITY, MO.

JACKSON & MORELAND
ENGINEERS
PUBLIC UTILITIES—INDUSTRIALS
RAILROAD ELECTRIFICATION
DESIGN AND SUPERVISION—VALUATIONS
ECONOMIC AND OPERATING REPORTS
BOSTON NEW YORK

EARL L. CARTER
Consulting Engineer
REGISTERED IN INDIANA, NEW YORK, OHIO, PENNSYLVANIA, WEST VIRGINIA, KENTUCKY
PUBLIC UTILITY
VALUATIONS AND REPORTS
910 *Electric Building* *Indianapolis, Ind.*

JENSEN, BOWEN & FARRELL
Engineers
Ann Arbor, Michigan
Appraisals - Investigations - Reports in connection with rate inquiries, depreciation, fixed capital reclassification, original cost, security issues.

E. J. CHENEY AND CO.
Engineers and Consultants
61 BROADWAY NEW YORK

SLOAN & COOK
CONSULTING ENGINEERS
120 SOUTH LA SALLE STREET
CHICAGO
Appraisals—Original Cost Studies
Depreciation, Financial, and Other Investigations

ROBERT E. FOLEY
Erecting Engineer
Telephone Lines—Rural Lines—Fire Alarms—Transmission Lines
48 Griswold St. Binghamton, N. Y.

J. W. WOPAT
Consulting Engineer
Construction Supervision
Appraisals—Financial
Rate Investigations
1510 Lincoln Bank Tower Fort Wayne, Indiana

Mention the FORTNIGHTLY—*It identifies your inquiry*

INDEX TO ADVERTISERS

[The Fortnightly lists below the advertisers in this issue for ready reference. Their products and services cover a wide range of utility needs.]

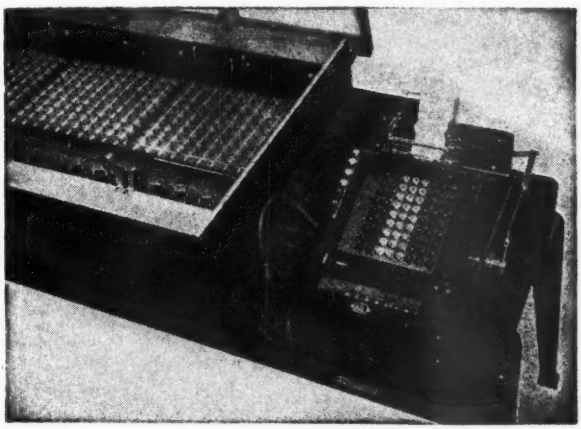
*Fortnightly advertisers not in this issue.

Customer Usage Data

• At Lower Cost • In Less Time

• With Greater Accuracy

THE ONE-STEP METHOD



OF BILL ANALYSIS

R & S Bill Frequency Analyzer: developed for our Utility Rate Service. The kw.-hrs. billed are entered on the adding machine keyboard. A tape is prepared of all items and a consumption total accumulated which serves as a control. At the same time—through this *single* operation—the bill count for each kw.-hr. step is made by the electrically controlled accumulating registers.

• A continuance of frequent rate changes—the necessity of checking load-building activities—the pressing need for current data on customer usage—are but a few of the reasons many Companies are using R & S ONE-STEP METHOD to analyze and compile information required for scientific rate making. They have not only reduced the costs on this work to an average of one-fifth of a cent per item, but have obtained monthly or annual bill-frequency tables in a few days instead of weeks and months.

• Write for your copy of "The One-Step Method of Bill Analysis," an interesting booklet which describes briefly how these savings are accomplished.

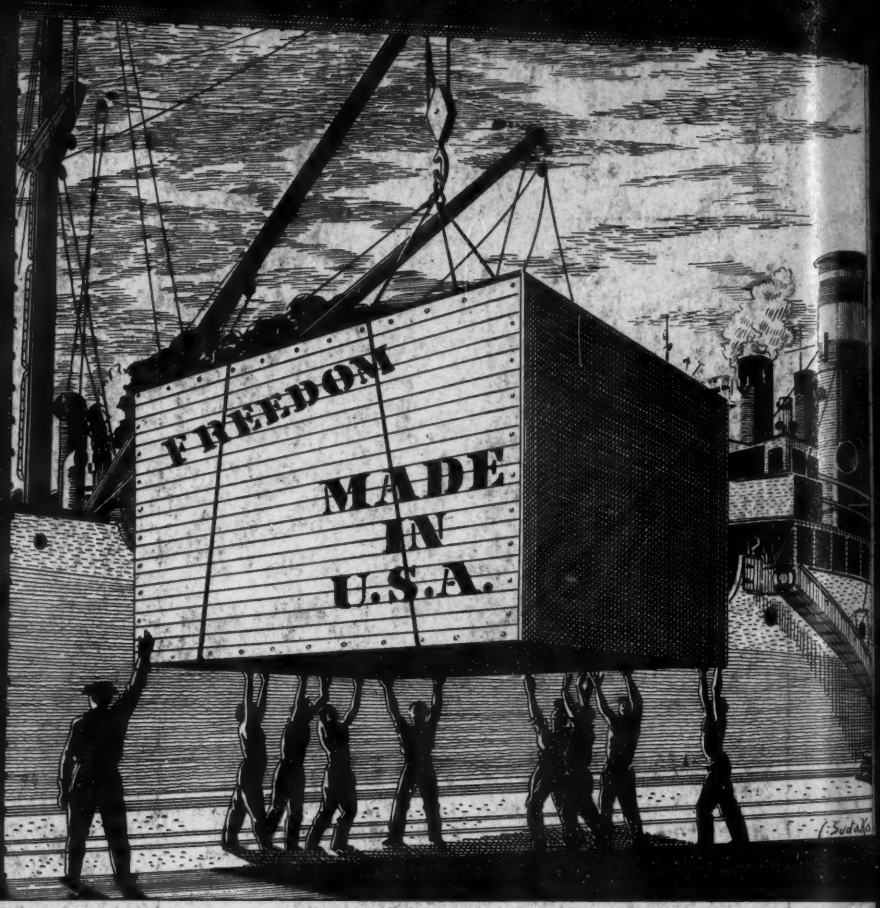
Recording & Statistical Corporation

Utilities Division

102 Maiden Lane, New York, N. Y.

Boston Chicago Detroit Montreal Toronto

This page is reserved under the **MSA PLAN** *(Manufacturers Service Agreement)*



ON THE WHARVES of Liverpool and Singapore, in a freighter's hold halfway across the Atlantic, in a truck on the Burma Road, you will find them—three words stencilled on a thousand boxes and bales: "Made in U.S.A."

Yesterday, three big words to look for. But today they stand for more than the unequalled engineering and production that have made them familiar on every dock and pier in the world. They stand for the productive strength of a free people—a productive strength that cannot be matched; they stand for a determination to "deliver the goods"—a determination that will not be thwarted. And in the ports of the world's embattled democracies, wh men are hourly risking their lives to t delivery, they stand for *freedom* itself!

To keep this great flood of goods movi is the most important job in the wo today. Wherever it moves, General Electr helps to provide motors and propulsi equipment to keep it moving. In tra hauling ore to America's factories; factories building guns and tanks a planes; in ships carrying oil to Britain a food to China; in destroyers and cruise and battleships patrolling two oceans—t words "General Electric" stand besi "Made in U.S.A." *General Electric Co pany, Schenectady, New York, U.S.A.*

GENERAL ELECTRIC

962-22484-211